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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

No. 174.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, AND ROBERT CLUETT, APPELLANTS,

vs.

HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, WILLIAM S. DUNN, DEXTER N. FORCE, HORACE J. FAIRCHILD, DANIEL ROBINSON, SOLOMON TIM, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED OCTOBER 11, 1887.

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1 [L. S.] The President of the United States of America to Horace B. Claflin, John Claflin, Edward E. Eames, William A. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim or Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, & Edward Wallerstein, Greeting:

You are hereby commanded that you and each of you personally appear before the judges of the circuit court of the United States of America for the southern district of New York, in the second circuit court, in equity, on the first Monday of July, A. D. 1885, wherever the said court shall then be, to answer a bill of complaint exhibited against you in the said court by George B. Cluett and others, and do further and receive what the said court shall have considered in that behalf; and this you are not to omit under the penalty on you and each of you of two hundred and fifty dollars.

Witness Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of New York, on the tenth day of June, in the year one thousand eight hundred and eighty-seven, and of the Independence of the United States of America the one hundred and ninth.

TIMOTHY GRIFFITH, *Clerk.*

JAS. A. SKILTON,
Complainants' Sol'r.

The defendants are required to enter appearance in the above cause in the clerk's office of this court on or before the first Monday of July, 1885, or the bill will be taken *pro confesso* against them.

T. G., *Clerk.*

2 (Endorsed:) I hereby certify that on the 11th day of June, 1885, at the city of New York, in my district, I personally served the within subpœna in equity upon the within-named defendants, Solomon Tim & John Claflin, by exhibiting to each of them the within original and at the same time leaving with each of them a copy thereof. Dated June 11th, 1885. (S'g'd) Joel B. Erhardt, United States marshal, southern district of New York. (S'g'd) John E. Dowley, deputy.

(File-mark:) U. S. circuit court. Filed June 17, 1885. Timothy Griffith, clerk.

3 United States Circuit Court, Southern District of New York.
In Equity.

To the honorable the judges of the circuit court of the United States for the second circuit within and for the southern district of New York, sitting in equity:

In Equity.

George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, all citizens of the State of New York, bring this their bill against Horace B. Claf-

lin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, constituting the firm of H. B. Claflin & Co., all of the city, county, and State of New York, and Solomon Tim, Louis Tim, Maurice Ober, and Jeremiah O'Sullivan, all of the city, county, and State of New York, and Edward Wallerstein and Max Herman, of the city of Troy, county of Rensselaer, and State of New York, constituting the firm of Tim, Wallerstein & Co., all citizens of the United States and of the State of New York.

And thereupon your orators complain and say that heretofore, to wit, before the 17th day of November, 1874, Robert Cluett, one of the above-named complainants, was the original and first in-
4 ventor of a certain new and useful improvement in shirts, not known or used by others before his invention or discovery thereof and not in public use or on sale for more than two years prior to his application for letters patent therefor, and duly prepared, executed, and filed in due form of law with the proper Department of the Government the necessary papers required by the statute preparatory to obtaining letters patent of the United States therefor; upon which application such proceedings were had that on the seventeenth day of November, 1874, letters patent of the United States, dated on said day, signed by the Secretary of the Interior and countersigned and sealed with the seal of the Patent Office by the Commissioner of Patents and numbered letters patent number 156,880, were issued and delivered to the said Robert Cluett for the said invention, entitled an "improvement in shirts," whereby there was granted unto the said Robert Cluett, his heirs, administrators, and assigns, for the term of seventeen years from the said date thereof, the full and exclusive right and liberty of making, using, and vending to others to be used the said improvement, as in and by a certified copy of the said letters patent, here in court to be produced and shown to your honors, will more fully appear.

And your orators further show unto your honors that on the 28th day of June, 1875, the said Robert Cluett, by his deed of that date, duly executed and recorded December 23, 1876, in Liber C 21, p. 188, for a valuable consideration conveyed to the said George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, jointly, at that time constituting the said firm known and doing business under the firm name and title of George B. Cluett, Brothers & Co., all his right, title, and interest in and to the invention and discovery secured by the said letters patent in and for the whole United States of America, with the exclusive right and license therein to manufacture,
5 use, and vend the said "improvement in shirts," as described and claimed in said letters patent, during the unexpired term of said letters patent, as by the said deed, here in court to be produced, if required, will more fully appear.

And your orators further show unto your honors that your orators have always since the said conveyance and in the exercise of the full and exclusive liberty so granted and conveyed as aforesaid made, used, and vended to others to be used the said improvement so patented, and have had and maintained until the infringement hereinafter complained of exclusive possession of the said improve-

ment and invention under and by virtue of said letters patent, and have never acquiesced in any infringement or invasion of their said rights, and that the right of your orators to the exclusive use and enjoyment of said invention as covered by said letters patent and acquiesced in by the public has been generally respected.

And your orators further represent and charge, upon information and belief, that said Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Herman, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein, defendants herein, since the issue of said letters patent and the said conveyance thereof to your orators as aforesaid, well knowing the premises and intending and devising to infringe upon and violate the exclusive rights of your orators under and by virtue of said letters patent, have been engaged in the city, county, and State of New York and elsewhere within the United States and within the jurisdiction of this court, and without any license or authority so to do, in making, jointly and severally (amended as per order of court on file) using, and vending large quantities of same shirts involving the invention secured to your orators as aforesaid by or under the said letters patent and said deed—how many your orators are unable to state, but pray that the defendants may discover and set forth
6 in their answer to this bill, none of said articles so made, used, or vended by said defendants having been made by any person or persons authorized or licensed to use the said patented inventions; all of which acts of the said defendants are in flagrant violation of the exclusive rights of your orators under and by virtue of said letters patent and the deed thereof, hereinbefore mentioned, and by means of the premises the defendants have infringed upon and still continue to infringe and violate the said exclusive rights and privileges of your orators secured to them as above stated.

And your orators further show unto your honors that the shirts which have been made and are being made and sold by the defendants as aforesaid use and employ the elements and devices below described, which elements are actually the same as or equivalent to those described in and secured by the said letters patent, are combined and related to each other in the same manner, and are infringements of said letters patent, to wit: Said shirts consist in some instances of the following elements combined in the following manner: 1st, a shirt body; 2d, a shirt bosom bound on the outer edge with a folded and stitched binding; and, 3d, the shirt bosom attached to the shirt body by a separate line of stitching through such binding, being substantially the same as set forth in the first claim of said letters patent. In other instances they consist of, 1st, a shirt bosom composed of two or more thicknesses of cloth; 2d, a binding on the outer edge of the shirt bosom; and, 3d, a line of stitching which secures them to the shirt front, being substantially the same as set forth in the second claim of said letters patent.

In consideration whereof and forasmuch as your orators can only have adequate relief in a court of equity, where matters of this

nature are properly cognizable, to the end, therefore, that the
7 said defendants may, if they can, show why your orators should not have the relief hereby prayed, and that the said defendants may, upon oath, to the best and utmost of their knowledge, remembrance, and belief, full, true, and perfect answer make hereto and to such of the several interrogatories hereinafter mentioned and set forth as by the note hereunder written they are required to answer—that is to say:

1st. Whether letters patent were not issued to the said Robert Cluett as herein set forth.

2d. Whether said letters patent were not duly assigned and set over unto your orators by a deed duly recorded, and whether your orators are not now the sole and exclusive owners thereof.

3d. Whether the said defendants have not since the issue and conveyance of said letters patent as aforesaid made, used, or vended various articles made in accordance with the invention covered by said letters patent without any license or authority so to do.

4th. Whether a portion of such articles so made and sold as aforesaid were not composed of the following elements: 1st, a shirt body; 2d, a shirt bosom bound on the outer edge with a folded and stitched binding, and, 3d, the shirt bosom attached to the shirt body by a separate line of stitching through such binding.

5th. Whether another portion of such articles so made and sold as aforesaid was not composed of the following elements: 1st, a shirt bosom composed of two or more thicknesses of cloth; 2d, a binding on the outer edge of the shirt bosom, and, 3d, a line of stitching which secures them to the shirt front.

And 6th. What amount of such articles so made and in accordance with said invention the defendants have manufactured or sold
8 since the date of said conveyance of said letters patent and invention and what profit has been made or derived therefrom by the said defendants.

And your orators further pray that the said defendants may be forthwith restrained by a writ of injunction issuing out of and under the seal of this honorable court from making or vending any article involving or embracing or manufactured in pursuance of the invention secured to your orators by virtue of said letters patent and from all violation or infringements of the exclusive rights of your orators under or by virtue of said letters patent, and that on the final hearing of this cause the said injunction may be made perpetual.

And further that said defendants may be decreed to account to your orators for all the profits realized by them from sales of articles made pursuant to the said invention, as secured to your orators by said letters patent, in violation of the exclusive rights of your orators, and also to pay to your orators, in addition to said profits, the damages which have been sustained by your orators by reason of said infringement, and that your orators may have such other and further relief in the premises as the nature of the case may require and as may be according to equity and good conscience.

And may it please your honors to grant to your orators a writ of subpœna to be directed to the said defendants, Horace B. Claflin,

John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Herman, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein, commanding them, at a certain day and under a certain penalty, to be and appear before this honorable court, and then and there full, true, direct, and perfect answer to make to all and singular the premises, whether specially interrogated thereto or not, and further to stand to, abide by, and perform such further orders, direction, and decrees therein as to your honors shall seem meet and proper.

9 NOTE.—Each defendant is required to answer each interrogatory.

GEO. B. CLUETT.
J. W. ALFRED CLUETT.
ROBERT CLUETT.

JAMES A. SKILTON,
Solicitor and of Counsel for Compl'ts.

UNITED STATES OF AMERICA, *Northern District of New York,* } *ss:*

On this fifth day of June, 1885, before me, a United States commissioner, personally appeared George B. Cluett, one of the complainants above named, who, being duly sworn, did depose and say that he has heard read the foregoing bill in equity and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated to be on information and belief, and as to those matters he believes it to be true.

N. B. SYLVESTER,
Commissioner of the United States Circuit Court for the Northern District of New York.

(Endorsed:) U. S. circuit court, southern district of New York. In equity. George B. Cluett & *als. vs.* Horace B. Claflin & *als.* Bill of complaint. James A. Skilton, solicitor for complainants, No. 115 Broadway, N. Y.

(File-mark:) U. S. circuit court. Filed June 10, 1885. Timothy Griffith, clerk.

10 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.* *vs.* HORACE B. CLAFLIN *et al.* } In Equity.

Please enter my appearance for the defendants in the above-entitled suit as of to-day.

Dated New York, July 6, 1885.

(S'g'd) DAVID TIM,
Sol'r for Defendants, 25 Chambers St., New York.

To Timothy Griffith, Esq., clerk.

(Endorsed:) U. S. circuit court, southern district of N. Y., 2nd circuit. George B. Cluett *et al. vs.* Horace B. Claflin *et al.* Appearance. David Tim, sol'r for def'ts, 25 Chambers street, N. Y. city.
(File-mark:) U S. circuit court. Filed July 6, 1885. Timothy Griffith, clerk.

11 Circuit Court of the U. S., Southern District of New York.
In Equity.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
against
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, WILLIAM S. DUNN, Dexter A. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.

The answer of the above-named defendants, respondents, to the bill of complaint exhibited against them by the above-named complainants.

The respondents, now and at all times hereafter saving and reserving to themselves all and all manner of benefit of exception which may be had or taken to the manifold errors, uncertainties, imperfections, and insufficiencies of the said bill of complaint,
12 for answer thereto or to so much as they may be advised it is material or necessary to make answer to, answering, say—

That upon information and belief alone they admit that letters patent of the United States were issued to a person of the name alleged in this bill and at the date therein referred to for an alleged invention therein referred to; but whether any of the provisions or requirements of law were duly or at all complied with they have no knowledge or information and cannot set forth, and leave the complainants to make such proof thereof as they may be advised.

The respondents, further answering, say that they are not advised, save by the bill of complaint, whether said letters patent were assigned to said complainants as set forth in said bill or otherwise or whether said alleged assignment was duly or at all recorded in the Patent Office, and leave the complainants to make such proof thereof as they may be advised.

And the respondents, further answering, deny, as they are advised and believe, that they have ever at all in any way infringed upon the aforesaid letters patent or that they are now infringing upon the same or intend so to do.

And the respondents, further answering, say that they are informed and believe that the said letters patent and each and every part thereof are void and of no effect in law because that the said alleged invention had been, prior to said alleged invention or discovery thereof, patented by the following-named persons in and by the following-named patents:

U. S. letters patent No. 134,909, granted to A. D. Marr January 14th, 1873.

U. S. letters patent No. 146,656, granted to A. Conger January 20th, 1874.

English letters patent No. 3036, granted to R. A. Ford and W. A. Page December 11th, 1860.

13 English letters patent No. 1725, granted to William Edward Newton June 28th, 1865.

English letters patent No. 92, granted to Peter McIntyre January 13th, 1864.

English letters patent No. 1594, granted to Benjamin Nicoll June 24th, 1864.

French letters patent No. 97034, granted to A. M. Jay October, 1872.

And the respondents, further answering, say that the said letters patent and each and every part thereof are void and of no effect in law because that the said alleged invention had been described in some printed publication prior to the supposed invention or discovery thereof by the complainants, to wit, the letters patent last referred to.

And the respondents, further answering, say that the said letters patent and each and every part thereof are void and of no effect in law because that the said alleged inventor was not the original and first inventor or discoverer of any material or substantial part of the said alleged invention or discovery, but that the same and every material and substantial part thereof had been previously invented and used by and known to the following persons at the places set opposite their names respectively, such persons now residing, to the best of the respondents' knowledge and belief, at the places respectively specified:

George Richardson, Morris Kohn, Michael C. Hirsch, Jacob Bloch, Samuel Vendig, L. & S. Sternberger, Alexander Sinsheimer, Jacob Loeber, Peter Michael, John Sitz, David Wallace, E. C. Beebe, and F. Sache, at the city of Philadelphia and elsewhere in the United States, and all of whom now reside in the city of Philadelphia, in the State of Pennsylvania.

Isaac Frank, Victor H. Rothschild, Albert Burkhardt, Albert Aaronson, H. Spiegel, Louis Frank, Jacob Shire, Jacob Wallach, and Isaac Wallach, M. Ballin, Samuel Stern, Levi Price, Emile

14 Weil, Joseph A. Carburgh, and Moses Cahm, at the city of New York and elsewhere in the United States, and all of whom now reside in the city, county, and State of New York.

And the respondents, further answering, say that the said letters patent and each and every part thereof are void and of no effect in law because that the said alleged invention had been in public use and on sale in this country for more than two years before the said inventor and patentee made application for a patent therefor, and that the same had been abandoned to the public by the said inventor and patentee, and that the same was previously known to the persons heretofore named as having prior knowledge, who reside at the places set opposite their names.

And the respondents deny that said letters patent or the alleged rights of the complainant have ever been at all acknowledged or ac-

quiesced in, but, on the contrary, that the said alleged invention has been publicly used in defiance and disregard of any alleged rights of the complainants.

And these defendants further allege that, taking into consideration the state of the art at the time the said improvement was alleged to have been made by the person named in the complaint, the said letters patent do not describe or claim any construction the production of which involved anything more than mere mechanical skill, and that for this reason the said letters patent do not contain any patentable invention, and are therefore void.

For answer to the first and second interrogatory defendants say that they have by their answer sufficiently replied thereto.

For answer to the third interrogatory defendants say that they have not had any license to make, use, or vend various articles which they did make, use, and vend, and which in some respects are similar to the alleged invention covered by the said letters patent, but that, as they are advised and believe, they had the lawful right to do so.

15 For answer to the fourth interrogatory defendants say: "Yes."

For answer to the fifth interrogatory the defendants say: "Yes."

For answer to the sixth interrogatory the defendants say that they cannot without great inconvenience, labor, and time properly reply hereto, and, moreover, by the advice of counsel that these letters patent are invalid, they refuse to reply any further.

And the respondents deny all and all manner of unlawful combination by the said bill charged; without this, that there is any matter, cause, or thing in the said bill of complaint contained (material or necessary to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied) true to the knowledge or belief of the respondents; all which matters and things the respondents are ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

DAVID TIM,
Respondents' Solicitor.

LOUIS C. RAEGENER, *Of Counsel.*

16 UNITED STATES OF AMERICA,
Southern District of New York, County of New York.

On this 10th day of August, one thousand eight hundred and eighty-five, before me came Solomon Tim, Jeremiah O'Sullivan, and Maurice Ober, of the above-named respondents, and, being by me duly sworn, did each for himself depose and say that he had read the foregoing answer, and that the same is true of his own knowledge except as to those matters therein stated to be on information and belief, and as to those matters he believes it to be true.

SOLOMON TIM.
JEREMIAH O'SULLIVAN.
MAURICE OBER.

[SEAL.] VICTOR LEVI,
Notary Public, New York County.

(Endorsed:) U. S. circuit court, southern dist. of N. Y. George B. Cluett *et al.*, plaintiffs, against Horace B. Claflin *et al.*, defendants. Answer. David Tim, solicitor for defendants, 25 Chambers St., N. Y. city. (File-mark:) U. S. circuit court. Filed Aug. 10, 1885. Timothy Griffith, clerk.

17 Circuit Court of the United States, Southern District of New York. In Equity.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter A. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.

Amendment to the Answer in this Cause.

1. In section 2, on page 4, after the name "Moses Cohen" and before the words "at the city of New York," insert "Moses Cahm and Lemuel W. Serrell.

2. At the top of page 3, after the words "January 20, 1874," and before the words "English letters patent 3036, &c.," insert "United States letters patent, A. Salmon, No. 111,978, February 21, 1871, for shirts."

We consent to the entry of an order allowing the within amendment to the answer to be filed.

18 New York, December 7th, 1885.

JAMES A. SKILTON,
Compl'ts' Solicitor.
DAVID TIM,
Def'ts' Solicitor.

Ordered accordingly.
New York, December 8th, 1885.

WM. J. WALLACE, *Judge.*

Circuit Court of the United States, Southern District of New York. In Equity.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter A. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.

Amendment to the Answer in this Cause.

On the fourth page, after the words "city, county, and State of New York," insert:

"Hugh W. McClellan, at Chatham, New York.

"Myron E. Clarke, at Chatham, New York.
"H. M. Ford, at Chatham, New York.
"Daniel Leonard, at Albany, New York.
19 "——Thomas (whose Christian name is not known to these defendants, but which they beg leave to insert upon ascertaining the same), at Troy, New York."

We consent to the entry of an order allowing the within amendment to the answer to be filed.
New York, October 7th, 1885.
(Signed) JAMES A. SKILTON,
Complainants' Solicitor.
(Signed) DAVID TIM,
Defendants' Solicitor.

Ordered accordingly.
New York, October 8th, 1885.
WM. J. WALLACE, *Judge.*

(Endorsed:) Filed Oct. 12, 1885.

20 Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter A. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say that will aver and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the defendants is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever
21 in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.
(S'g'd) JAMES A. SKILTON,
Complainants' Solicitor.

(Endorsed:) U. S. circuit court, southern district of New York. George B. Cluett & others *vs.* Horace B. Claflin & others. Replication. James A. Skilton, No. 115 Broadway, complainants' solicitor.
(File-mark:) U. S. circuit court. Filed Oct. 6, 1885. Timothy Griffith, clerk.

22 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

SIR: Please take notice that we shall proceed to take proofs for final hearing herein on behalf of complainants, under the 67th rule in equity, in accordance with the statutes in such cases made and provided and in accordance with the stipulation entered into herein October 12th, 1885, before Wm. H. Butterworth, a notary public, at his office, No. 115 Broadway, N. Y., on Tuesday, January 19th, 1886, at 2 p. m. You are invited to attend and cross-examine the witnesses.

The examination will be continued from day to day.

Dated January 16th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, solicitor; Louis C. Raegener, of counsel for defendants.

23 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on the part of complainants under and pursuant to notice and consent (hereunto annexed), before William H. Butterworth, a notary public, at his office, No. 115 Broadway, New York, on Tuesday, January 19th, 1886, at 2 p. m.

Present: James A. Skilton, Esq., solicitor for complainants.

GEORGE H. BENJAMIN, a witness produced on the part of the complainants, was duly sworn.

By consent, the taking of testimony on part of complainants was adjourned to January 20th, at 10.30 a. m., at the same place.

WM. H. BUTTERWORTH,
Notary Public in and for the City & County of New York.

24 NEW YORK, *January 20th*, 1886.

Met pursuant to adjournment.

Present: James A. Skilton, solicitor for complainants; Louis C. Raegener, of counsel, and David Tim, Esq., solicitor for defendants.

Also present the witness, GEORGE H. BENJAMIN, who, having been duly sworn at the meeting on the 19th inst., testifies on behalf of the complainants, in answer to interrogatories put by Mr. SKILTON, as follows:

Q. 1. What is your name, age, residence, and occupation?

A. George H. Benjamin. I am thirty-three years of age. I reside at Short Hills, Essex county, New Jessey, and have my office in the city of New York. I am by occupation a mechanical engineer.

Q. 2. Please state what experience you have had in the practice of your profession, and also state whether you have been called upon to testify in the courts or elsewhere in relation to inventions and patents.

A. I have been engaged in the practice of my profession as mechanical engineer for the past seven years, during which time I have been frequently employed to design, construct, operate, and test machines of various kinds. I have for the past five years been almost wholly occupied in examining patents, patented devices, and machines, and I have frequently been called upon to give opinions or to testify in suits before the Patent Office and United States courts regarding the identity or diversity of devices or patented inventions. For two years I acted as associate editor of Appleton's Cyclopedia of Applied Mechanics, and while so engaged was brought di-
25 rectly into contact with the majority of the manufacturing industries of this country and Europe. Many of the articles contained in the said work descriptive of machines, manufactures, &c., were prepared and written by me. I am familiar, from personal observation, with the methods employed in shirt manufacture, as also with the subsequent treatment of the manufactured article prior to its being offered for sale or adapted for use. I refer to the process of laundering. The article on laundering machinery in the before-mentioned cyclopedia was written by me.

Mr. Skilton offers in evidence the Cluett patent here in contest for an improvement in shirts, No. 156,880, dated November 18, 1874, and the same is marked Complainants' Exhibit Cluett Patent, Wm. H. B., notary public; also a certified copy of the assignment of Robert Cluett to George B. Cluett, Brother & Company, and the same is marked Complainants' Exhibit Cluett Assignment, Wm. H. B., notary public.

Q. 3. Have you examined and are you familiar with the patent here in question and with the invention therein described?

A. I have frequently examined the patent referred to in the question, which I understand to be complainants' patent upon which this suit is founded. I believe that I thoroughly understand the

invention described therein; and likewise that I thoroughly understand the manufacture and uses of the article described therein.

Adjourned till one o'clock p. m.

Met pursuant to adjournment.

Mr. Skilton offers in evidence three shirts of the defendants' manufacture, and the same are marked Complainants' Exhibits Defendants' Shirts Nos. 1, 2, and 3, respectively, W. H. B., notary public.

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It is admitted that the three above-mentioned exhibits were manufactured and sold by the defendants herein.

Q. 4. Have you examined the Complainants' Exhibits Defendants' Shirts, Nos. 1, 2, and 3 respectively, and do you understand their method of construction?

A. I have examined the three exhibits referred to in the question, namely, Complainants' Exhibits Defendants' Shirts 1, 2, and 3 respectively, and I thoroughly understand the construction and mode of operation or rather the method of manufacture and use shown in such exhibits.

Q. 5. Please compare the three exhibits mentioned in the last question with the devices and combination of devices shown and claimed in Complainants' Exhibit Cluett Patent and state whether you find in these exhibits substantially the invention claimed in that patent, and in giving your answer please state your reasons for any opinions you may express.

A. I have frequently made the comparison called for by the question and I am clearly of the opinion that the defendants' shirts, as illustrated by the Complainants' Exhibit Defendants' Shirts 1, 2, and 3 referred to in the question, do contain the invention referred to in both claims of complainants' patent. Referring to the Cluett patent, I will first state what I understand to be described and referred to as the invention of the two claims of the patent. The patent refers to a shirt, and for the purpose of analysis I will divide the invention into three parts: First, an improved shirt bosom; second, the method of attaching a shirt bosom to a shirt body, and, thirdly, the shirt as a completed whole—as an article of manufacture, the shirt having a bound and stitched bosom. I understand, further——

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Defendants' counsel observing that the witness has several sheets of manuscript in his hand, which he admits to be notes—memoranda—concerning the subject-matter in dispute, and that he is continually referring to this written memoranda, defendants' counsel objects to the use of these memoranda on the ground that it is incompetent evidence, and moreover that it is not the best evidence; that whereas defendants' counsel is perfectly willing to have the expert witness refer to dates and names and printed publications, if he is unable accurately to remember the same, for such printed publications of patents would be the authorities and sources from which witness may have collated his material and defendants' counsel would have an opportunity of examining such printed publication

and patent, but that he does object in a matter so simple as this invention and the letters patent and in view of the plain question put to the witness to have the witness read carefully prepared testimony and essays in answer to his question. He gives the usual notice that he will move to strike out this testimony unless the witness immediately discontinues using his prepared testimony.

Counsel for complainants replies that the witness has been called upon to make an examination of several hundred patents of shirts in preparing to testify herein and has made notes as that examination proceeded, which it is his undoubted right to make use
28 of and refer to in giving his testimony in answer to this and to other questions that may be put to him; and further states that the witness has not read from these notes prepared answers, but has, on the contrary, answered questions without reference to the notes referred to; and counsel for complainants instructs the witness that, for convenience, he has a perfect right to refer to the notes that he has made during his examination, leaving the defendants to dispute or correct any alleged misstatement the witness may make.

The defendants' counsel states that the several hundred patents and publications which the witness is said to have examined are the best evidence of anything they may contain, and not such statements as the witness sees fit to give; and, furthermore, that he asks for leave to examine these memoranda in order to find out whether they contain anything objectionable in addition to what he believes them to contain.

Counsel for complainants replies that the demand on the part of the defendants' counsel to examine the notes and memoranda of the expert is unwarrantable and believed to be previously unheard of in the practice in these cases; and counsel for complainants objects to the exposure of notes and memoranda made by the witness in conference with the counsel for complainants in the preparation of the case on the ground that counsel for defendants has no more right to examine such notes and memoranda than he has to demand as his right the privilege of being present during the pre-
29 liminary consultations necessarily had in the preparation for the testimony of this witness.

Defendants' counsel says:

Witness continues to make use of his notes and memoranda in giving his testimony.

The witness states that he has not made use of any memoranda up to this time.

Defendants' counsel states, in view of the fact that the witness has a number of closely written pages of testimony on his lap, at which he is continually looking while these objections have been placed upon the record and from which he proposes to give his testimony, and there being apparently a question of veracity between the witness and defendants' counsel as to whether these pages have been consulted by the witness, defendants' counsel asks the notary to certify to the facts, and asks for the court to rule upon the question whether the witness has a right to do as he has been doing.

Counsel for complainants states that, at the suggestion of counsel for defendants, the counsel and solicitor for both sides took the matter in controversy here on the record before Judge Shipman, at chambers, to whom Mr. Raegener presented at length the points substantially as made in the record herein by him and Mr. Skilton also presented the points made on the record on behalf of complainants, whereupon Judge Shipman decided that in a case where an expert had been called upon to examine into the state of the art in any particular branch of invention and to construe or ascer-
30 tain the nature of an invention set forth or claimed in any particular patent in controversy, and in giving his testimony in relation thereto was asked to construe the invention, compare the alleged infringing articles therewith, and give his reasons therefor, he was entitled to make full memoranda and statements of his opinion and the grounds thereof in writing and use the same in and while making answers to the questions put to him in that regard. Defendants' counsel and also the solicitor take exception to the statement made by complainants' counsel as being the ruling of Judge Shipman upon the question in controversy, and state that all that Judge Shipman ruled was that the witness had the right to refresh his memory from memoranda previously prepared by him.

Witness continues: I understand further that the invention relates to a shirt made of a material adapted to be laundered to fit it for use—that is to say, a shirt wherein the body is of muslin or similar material and in a flexible or semi-flexible condition, and wherein the bosom is of one or more layers of linen or similar material and starched, ironed, or otherwise finished to be rigid or stiff—a shirt having the features as stated in contradistinction to a shirt made from a cotton or woolen fabric—such, for instance, as flannel or knit goods—and wherein the body and bosom of the shirt are both flexible and intended to be so in the finished shirt—that is, a shirt wherein no starch or other stiffening material is employed to put it into condition for use. I understand further that the invention relates to a shirt wherein the bosom when starched and ironed, as in a finished shirt, will lie in a plane differing from that occupied
31 by the body of the shirt. I understand likewise that the patent relates to and describes a bosom made up of one or more layers of suitable material laid smoothly over another layer or layers, and so arranged as regards the body of the shirt that all the raw, selvedge edges or loose threads or both of the bosom or of the shirt body at the point of attachment of the bosom shall be concealed, or, so to speak, pocketed—that is to say, no free or selvedge edges or loose threads will be left out or open to view. I understand further that the invention relates to the means whereby the raw or selvedge edges and loose threads of the bosom and shirt body are pocketed or concealed, such means consisting of a binding. The invention as a whole I understand to be for a shirt with a bound bosom, a shirt comprising a shirt body and a shirt bosom united together through the intermediation of a binding and stitching, the arrangement or relation of the several parts being such that all the raw or selvedge

edges or loose threads are concealed or pocketed. The objects of the invention may be stated to be, 1st, to avoid the necessity of folding in the raw edges and loose threads of the bosom, which I understand to be the method of manufacture commonly employed by the trade or others prior to the invention of complainants' device; 2d, by means of the binding to stay the bosom, rendering it firmer in itself and less likely to rumple and break; 3d, to avoid fulling up of any one of the layers composing the bosom, which I understand to be a frequent source of trouble in the older methods of shirt manufacture, all of these three features having reference to the preparatory stages of the manufacture of the bosom itself; 4th, to furnish a ready means of attaching the bosom to the shirt body, thereby facilitating the manufacture and cheapening the cost; 5th, to strengthen the point of attachment between the bosom and the shirt body, thereby rendering the bosom better adapted to withstand wear and calculated to
32 outlast the shirt body; 6th, to afford greater facility for ironing the shirt and less liability to the destruction of the shirt bosom in the flattening process of ironing. The devices described in complainants' patent are made up essentially of the following elements: First element, a shirt body made of the usual material or materials and in the ordinary manner, two forms being shown: (A) wherein the front or bosom portion is continuous with and of the same material as the rest of the shirt body; (B) wherein the front or bosom portion is cut out to approximately the size and shape of a separately made bosom designed to be subsequently applied over the opening of the shirt body. Second element: A shirt bosom, of any desired shape, made from one or more layers of any suitable material or materials, laid smoothly one over the other and having arranged over the outer edge thereof a folded straight or biased binding. Two plans or methods for cutting the layers of the bosom are shown and described: (C) wherein the layers of the bosom are of the same size and their edges covered by a binding, this style of bosom being adapted to be secured upon a shirt body with a continuous front, of the style shown in figure 4 of the drawings of complainants' patent, and attached to said body by a single line of stitching. In this arrangement of parts the front of the shirt body serves as an extra layer or backing for the bosom. This form of bosom may, however, be used with a shirt body having a cut-out front, as shown in figure 11 of the drawings of complainants' patent. (D) wherein all the layers of the bosom are of the same size or wherein the bottom or back layer is slightly larger than the others, and wherein all the layers except the back layer are included between the edges of the binding. This form of bosom is adapted to be applied to a shirt body having a cut-out front, as shown in figure 11 of the drawings of complainants' patent, the back layer of the bosom in this case being the equivalent for the shirt
33 body as described in the former instance. Two methods of attaching this style of bosom to the shirt body are described, the first method consisting in stitching the back layer of the bosom to the shirt body, the raw edges of the superior layers of the bosom

being bound with a folded binding, and subsequently attaching or connecting the whole to the body of the shirt by a line of stitching which completes the binding; the second method consisting of attaching the bosom to the shirt body by a single line of stitching passing through the binding, or the binding, the included edges of the shirt bosom, the back layer of the bosom, and the shirt body. A third method is indicated, which consists in first stitching the back layer of the bosom to the shirt body, and subsequently completing by binding the whole. Third element: A binding. The specification describes and the patent relates to a binding formed from a straight or biased strip of material, which is not limited as to width and which may be applied in any convenient manner so long as it performs its office, which I understand to be the pocketing or covering of the raw edges and loose threads of the bosom or bosom and shirt body. The binding is described as folded; this I understand to refer to the edges of the binding. The binding, I understand, is to be attached to the shirt bosom by a line of stitching. The position of the line of stitching, which secures the binding to the shirt bosom, I do not consider to be material so long as it serves a like purpose. I am of the opinion that the position of the line of stitching which secures the back layer of the bosom to the shirt body is not material, providing the result be the same. I am of the opinion that the position of the line of stitching which secures the bosom to the shirt body is not material so long as the conjunction of parts brought into relation thereby is substantially the same. I am clearly of the opinion that the binding—the office of which being taken
34 into consideration, namely, to practically pocket and conceal the raw or selvedge edges and loose threads of the shirt bosom and the shirt body—may be arranged and secured in a number of different ways, depending upon obvious changes, in the relation of the bosom to the shirt body or the shirt body to the bosom, without departing from the character and intent of the invention.

The first claim of the patent, I understand, refers to the article of manufacture, the shirt, as a whole, comprising a shirt body and a shirt bosom attached to said shirt body through the intermediation of a folded and stitched binding and one or more lines of stitches.

The second claim I understand likewise to be for an article of manufacture, comprising a shirt body and a shirt bosom, bound on the outer edge with a binding and attached to said shirt body.

When I compare the defendants' shirts, Complainants' Exhibits Defendants' Shirts 1, 2, and 3, I find that they are substantially identical and contain all the elements of complainants' device. Referring to the exhibits individually, Complainants' Exhibit Defendants' Shirt No. 1 shows, first a shirt body; second, a shirt bosom, formed of one or more layers; third, a binding, covering the raw and selvedge edges and concealing and pocketing the raw edges of the bosom. Two lines of stitching are likewise shown, one securing the binding to the shirt bosom and the second securing the bosom to the shirt body, the exhibit being the same as that described in complainants' patent, not only as containing all the elements, but likewise in the method employed in associating the elements. Refer-

ring to the second exhibit, Complainants' Exhibit Defendants' Shirt No. 2, I find, first, a shirt body; second, a shirt bosom, formed of one or more layers; third a binding, covering the raw and selvedge edges and concealing and pocketing the raw edges and loose threads of the bosom. Two lines of stitching are likewise shown, one
35 securing the binding to the shirt bosom and the second securing the bosom to the shirt body. The shirt shows substantially the same parts and same method of arranging the several parts shown in complainants' patent. The line of stitching which secures the bosom to the shirt front is shown in this exhibit as within the line of stitching that secures the binding to the bosom, thereby differing in location from the line of stitching which secures the bosom as shown in complainants' patent. I am clearly of the opinion that the change in location of this line of stitching is entirely immaterial; it performs the same office in exactly the same way, and I consider it as an evident attempt to avoid the arrangement of parts shown in complainants' patent, and in all essential particulars an equivalent therefor.

Referring to the third exhibit, Complainants' Exhibit Defendants' Shirt, I find therein, first, a shirt body; second, a shirt bosom formed of one or more layers; third, a binding covering the raw and selvedged edges and concealing and pocketing the raw edges of the bosom and body. Two lines of stitching are likewise shown, one securing the edge of the binding to the shirt bosom and likewise passing through the body of the shirt, and the second securing the outer edge of the binding to the shirt body. The arrangement of parts in this exhibit is somewhat different from that shown in complainants' patent. This exhibit differs from the two last in that it is an inserted bosom, whereas in the other two the bosoms are laid on. The method of manufacture employed in making this shirt consists in first stitching the binding to the shirt body, then turning the edges of the shirt body at the opening outwards, placing the bosom upon such folded edge, and finally completing by turning the binding over the raw edges of the bosom and shirt body, thus, in effect, pocketing or concealing them, and finally finishing by a line of stitching which passes through the inner folded edge of the binding, the shirt bosom, and the shirt body. I am of the opinion
36 that the method of associating the parts as shown in defendants' shirt now under consideration produces or makes in the finished shirt an article substantially identical with that shown and described in complainants' patent. The relation of the parts as stated is somewhat different, but the effect of the conjunction of the several parts in the completed shirt is substantially the same. The binding covers, includes, and practically conceals all the raw selvedge edges and loose threads.

Adjourned to Monday, January 25th, at 10.30 a. m.

NEW YORK, *January 25th*, 1886.

Met pursuant to adjournment.

Present: Counsel as before.

By consent, adjourned to Monday, February 1, at one o'clock p. m.

NEW YORK, *February* 1, 1886.

Met pursuant to adjournment, 1 p. m., same place.
Present: Parties as before.

Q. 6. In stating the objects of the invention, in your last answer in the fifth clause, you refer to the strengthening of the point of attachment between the bosom and the shirt body. Please explain the object of increasing the strength of the parts at that point, and make use of any shirt in your possession in making the explanation.

37 A. Prior to the date of complainants' patent the method commonly employed to secure a bosom to a shirt body was to insert the edge of the shirt body between the layers of the bosom, securing the whole by a line of stitching passing through the outer and folded edges of the layers of the shirt bosom and the included shirt body. The edge of the shirt body which was inserted between the two layers of the bosom was preserved flat; and it frequently happened in the process of manufacture that the line of stitching which passed through the layers of the bosom and the shirt body but barely caught the included layer of the shirt body—in other words, but very little of the material of the shirt body was within the line of stitching; as a result, any strain would tear the body from the bosom by giving way of the edge of the body; and, further, the outer layer of the bosom being of linen and adapted to be stiffly starched, and the outer edge of the bosom turned inward at the junction with the shirt body, the edge of the bosom formed a sharp and cutting edge. This difficulty being increased with each subsequent laundering of the article, it will be readily understood, with the shirt in use and on the body of the wearer, the bosom stiff and the body semi-flexible, that the body was constantly rubbed or pushed over the sharp cutting edge of the bosom. The device described in complainants' patent shows a bosom with a thickened edge, thickened by reason of the folded edges of the bosom of the shirt body, of the bosom and shirt body or of the bosom and the binding or of the bosom, the shirt body, and the binding. The thickened edges absorb the starch, and no amount of subsequent ironing would be likely to produce a cutting edge around the bosom. The strengthening is further assisted by relation of the parts, and any strain to which the article is subjected will be borne by several thicknesses of material instead of one as in the case described.

38 Witness offers in evidence a shirt showing the construction and method of manufacture as previously employed and in use prior to complainants' invention.

The same is marked Complainants' Exhibit Benjamin's Shirt No. 1, W. H. B., N. P.

Q. 7. Please explain the object or function of the additional piece found at the edge of the bosom in the Exhibit Benjamin Shirt No. 1.

A. I understand the question to refer to the portion of material surrounding the bosom placed under the shirt body and secured to

the bosom by its inner edge and to the shirt body by its outer edge. This piece forms what is known in the trade as a re-enforce, a strengthening piece, and I understand its object to be to strengthen the attachment of the shirt body to the bosom. In the exhibit, at the point marked A, at the back of the bosom, I have separated at one edge and cut out the re-enforce so as to show the single layer of the shirt body, as attached to the bosom, and to show how weak such a junction between the parts is or will become with slight use.

Q. 8. In describing the office of the "third element, a binding," you mention "pocketing or covering of the raw edges and loose threads of the bosom or bosom and shirt body." Will you please explain the function of pocketing referred to, using any model you may have for purposes of illustration?

A. Referring to Complainants' Exhibit Benjamin Shirt No. 1, at the point marked B, on the front of the bosom of said exhibit, I have separated the line of stitches which connects the bosom to the shirt body. It will be seen that the edge of the shirt body is left free between the layers of the shirt bosom. By free I mean that the edge of the shirt body is not folded, turned upon itself, or in-
39 cluded; that the loose threads of the edge are free and uncontrolled. By holding the exhibit between the observer and the light these loose and free threads can be seen all around the edge of the shirt bosom and between the two layers of the bosom. With the device in use this condition becomes aggravated. The process of laundering tends to further separate these threads, and which, so to speak, run together so as to form knots, which readily absorb starch, and which render it quite impossible to produce a smooth and even finish on the surface of the shirt bosom. I understand the office of the "third element, the binding," to be to include such raw edges and loose threads and to limit their position to the edge of the shirt bosom, thereby rendering these very loose threads, which, in the first instance, were objectionable, a benefit by causing them to increase the thickness of the edge of the bosom to serve the purpose set forth in my answer to question 7.

Q. 9. The Cluett patent here in question refers to the binding as "cut bias, diagonally, or straight from the piece, so as to turn the curves of the bosom." Please explain the action of the bias-cut binding in the connection referred to and compare it with that of the straight-cut binding.

A. By a straight-cut binding I understand a portion of material in which the threads run parallel and longitudinal; by a bias binding, in which the threads are parallel and run diagonally across the binding, the practical effect of which is that a straight binding will not stretch, while a bias binding has considerable elasticity. In applying a straight binding to a curved bosom and in turning the curve the binding has to be folded upon itself, it cannot be run on smoothly, and I am not aware of any mechanical binder which will apply such a binding to a curved shirt bosom. Whereas in the case of a bias binding the elasticity of the binding is such that it readily follows the edge of the bosom without doubling upon itself, and can

be readily applied by all of the mechanical binders now in
40 use by the trade. The shirt bosom bound by the bias binding presents a smooth, even edge.

Counsel for complainants offer in evidence the two strips of cloth, one cut straight and the other cut bias, and the same are marked as follows:

Complainants' Exhibit Straight Binding Strip, Wm. H. B., N. P., and Complainants' Exhibit Bias Binding Strip, Wm. H. B., N. P.

Complainants' counsel also offers in evidence the shirt used by the witness in connection with his several foregoing answers, and the same is marked Complainants' Exhibit Benjamin Shirt No. 1, Wm. H. B., N. P.

Q. 10. What experience, if any, have you had in connection with laundering establishments and machinery?

A. I am generally familiar with the majority of the laundering machinery in use at the present day and which has been used by the trade. I have been consulted as to the best forms of machinery for use, and have submitted plans and have superintended the construction of laundries, one of which plans was adopted and erected at a large shirt-manufacturing establishment at Bordentown, New Jersey. I am generally familiar with the process of laundering shirts by hand and machinery, and have been consulted in relation to machinery for shirt ironing and finishing.

Cross-examination:

X Q. 11. What other methods to secure a bosom to a shirt body other than the method described by you in answer 6 were employed prior to the date of complainants' patent?

41 A. The method described by me, in answer to question 6, is the method which was commonly employed as shown by the state of the art. My examination of the state of the art, made with a view to instructing myself relative to the methods employed prior to complainants' invention, does not show any other method or methods which differ materially from that described in my answer.

X Q. 12. Then if there were other methods employed you are not familiar with them?

A. My answer has been based upon the state of the art. If other methods were in use they are not shown therein, and I am not familiar with them.

X Q. 13. In your last answer but one you indicate that there are methods with which you are familiar, but which you stated do not materially differ from the one employed in Benjamin Shirt No. 1 and described by you. To what methods have you reference?

A. I have reference more particularly to folded or pleated bosoms, square, or a plain bosom likewise square on its lower edge laid over a shirt body—that is, a shirt body with a continuous front, the edges of the bosom being first turned in and the whole secured over the body of the shirt.

X Q. 14. Is it not a fact that when the edges of the several layers of a bosom are turned in and under that this would prevent the raveling referred to in your previous answers?

A. No; I do not think—in fact I know, from personal experience, that it does not. The process of washing and starching a bosom tends to rub the layers of the bosom together and so increase the fraying or the straying of the threads of the selvedge edges.

X Q. 15. What harm would result to the bosom or the appearance of the bosom if the loose edges of a bosom in which the edges are turned in and under, as referred to in the last question, should unravel?

A. In answer to a previous question in the direct exami-
42 nation I stated that the threads tend to bunch up and absorb starch and to form rough spots, destroying the appearance and finish of the bosom.

X Q. 16. Supposing that this were so in a shirt bosom with the edges turned under, would not the appearance of these bunches of clotted starch be less visible in this kind of shirt than in the Benjamin Shirt No. 1?

A. No; I don't see that it would make any difference. I understand the question to refer to a shirt bosom made of two or more layers; as a consequence the outer edge of the outer layer of the bosom would come between the outer layer and the second layer, and consequently the loose threads of this layer of the bosom, as also the back layer of the bosom, would be in the position referred to. If anything, this arrangement would tend to aggravate the difficulty.

X Q. 17. At the date of the Cluett patent it was old to sew shirt bosoms to shirt bodies, was it not?

A. It was.

X Q. 18. Do you mean to be understood that it was new or that it was invention at the time of the Cluett patent to put a binding upon a shirt bosom?

A. Shirt bosoms had been bound previous to the date of complainants' patent, but I am not aware that a bound shirt bosom was applied to a shirt body and the parts so associated as to conceal all the raw or ragged edges of the shirt bosom or shirt body and shirt bosom.

X Q. 19. Can you conceive of a bosom bound with a strip of material in which the raw edges of the bosom would not be concealed?

A. That depends altogether upon how the binding was put on.

X Q. 20. I did not ask what it depended on, but if you can conceive of such a bosom please describe the same.

A. Witness does not consider that he is called upon to exert
43 his inventive faculties. To oblige the counsel for the defendants he, however, will describe such a bosom. Given a flat shirt bosom, turn the edges in for a distance, say, of half an inch; given a binding having its edges folded and turned over the folded edge of the shirt bosom and that portion of the binding which comes under the edge of the shirt bosom one-quarter of an inch in width. As a consequence that portion of the shirt bosom which is

turned under would extend towards the centre of the shirt bosom one-quarter of an inch further than the binding and consequently would be free and exposed.

X Q. 21. Is it not a fact that you cannot conceive of a practical shirt-maker putting a binding upon a shirt bosom in which the raw edges would not be concealed, and have you not in your last answer been obliged to exert your imaginative abilities to describe a thoroughly impractical shirt which even you, not being a shirt-maker, would not think of making were you called upon to make a shirt?

A. I have personally examined shirts made subsequent to the date of complainants' patent, which were made almost identical with the device described in my last answer, there being but a single difference, to wit, that portion of the binding which comes under the bosom was not folded on itself; as a consequence the raw edge of the binding was left exposed and free underneath the shirt bosom.

X Q. 22. But all of these devices have been made use of since the Cluett patent, and if the Cluett patent is good and valid are but colorable devices for the purpose of getting around the same. Is not that so? My questions had reference to the date of the Cluett invention or prior to the same.

A. In answer to the first portion of this question I am of the opinion that the various devices consisting of a shirt bosom, a shirt body, and a binding, where assembled and wherein the edges of the parts and loose threads were left free or partially pocketed, 44 were palpable attempts to avoid the construction or intent of the invention described in the Cluett patent. The second portion of the question is not definite and cannot be answered.

X Q. 23. Then you admit that the shirt described by you in which the edges of the bosom are turned under about half an inch is an impractical shirt, and even if there are shirts made similar to the one described by you if it were not for the Cluett patent no one would think of making that kind of a shirt?

A. I do not admit the premises. I have not construed the Cluett patent to cover shirt bosoms or the combination of a shirt bosom and shirt body and a binding to be for the whole where the loose threads and edges are free, and in answer to my previous question I had in view a shirt bosom where the edges or loose threads of the shirt bosom or shirt body were in effect concealed.

X Q. 24. Referring to your previous answer, and especially to that part which says, "I have not construed the Cluett patent," etc., "to be for the whole where the loose threads and edges are free," do you mean to be understood that in the Cluett patent the binding under the several layers of the bosom must be turned in?

A. I do not construe the Cluett patent to describe a binding which necessarily must be turned under. The office of the binding is to include certain of the edges, but not necessarily the whole. The conjunction of the binding and the shirt body may in effect include the others.

X Q. 25. Then shirts could be made under the Cluett patent in which the edges of the bosom layers could unravel and absorb the starch?

A. I have not so stated.

X Q. 26. What have you stated?

A. My answers referred to a shirt with a laid-on bosom of two or more layers and a binding wherein the outer edge of the binding was folded and turned over the layers of the bosom and be-
45 tween the bosom and the shirt body. The bosom secured to the shirt body by one or more lines of stitching, the second line of stitching passing through the shirt bosom and shirt body, or, supposing a line of stitching to be at the outer edge of the bosom, the free edge of the binding between the bosom and shirt body would be practically included between the two lines of stitching, and thus in effect limited to its position and thereby prevented from straying across the front of the bosom.

X Q. 27. At the date of the Cluett patent how were bosoms bound?

A. Detached bosoms or dickies entirely separate from the shirt were bound with a strip of material folded on their outer edge and stitched to the bosom by a line of stitching passing through the inner edge of the outer fold of the binding, the bosom, and the under edge of the binding.

X Q. 28. In such detached bosoms or dickies bound as described the different layers of the bosom—that is, the edges—were concealed and the unraveling of the same was prevented or concealed, was it not?

A. It was.

X Q. 29. Will you please make a diagram of these detached bound bosoms or dickies in use before the date of the Cluett patent?

A. I have made such a diagram, in elevation and in section, of a bound bosom.

The same is marked for identification Benjamin Detached Bosom, W. H. B., N. P.

X Q. 30. How wide was the binding shown on this bosom?

A. Varying in width—depending on the taste of the maker—from a quarter to half an inch.

X Q. 31. Given this detached bosom or dicky, bound as described by you and in use before the date of the Cluett patent, how would you sew the same upon a shirt body?

46 A. The question implies a knowledge on my part of what I would have done in 1874, and it is very possible that at that time it never would have occurred to me to sew it on at all.

X Q. 32. But if you had been retained as an expert and received a liberal compensation and were given this bound dicky, with the request to sew the same or suggest a method of sewing the same upon a shirt body, what would you have suggested and where would you have placed the stitch? I refer to the time or date of the Cluett patent.

A. My opinion at the present date, 1886, after having made a careful examination of all the patents relating to shirts granted since the date of the Cluett patent, undoubtedly has the effect to prejudice my judgment at the present date. What I would do if I

had not the knowledge I now have it is quite impossible for me to say.

X Q. 33. Would not the most natural way of sewing such a detached bosom or dicky upon a shirt body be by putting a second row of stitches through the binding onto the body of the shirt? To that I would like an answer yes or no.

A. Witness is unable to answer yes or no to the question, as he is unable to decipher the process of reasoning upon which the question is based.

X Q. 34. The process of reasoning has very little to do with the question of how you would sew a dicky described and drawn by you to a shirt body. Leaving out of the question the time and taking your present knowledge of the art into consideration, I ask you how you would sew such a bosom upon a shirt body, and whether you can suggest any conceivable and other practical way of sewing such a dicky upon a shirt body than by a second stitch through the binding.

A. If I were called upon to attach a bosom to a shirt body I should want to know the object it was intended to accomplish by so sewing such a bosom to the shirt body. If the counsel for
47 the defendants will specify the kind of shirt body he has reference to I will endeavor to answer the question.

X Q. 35. I repeat my question and ask whether you can conceive to-day of any other practical way of sewing that dicky upon a shirt body than by a second row of stitches through the binding.

A. Yes; I can conceive several. A line of stitches could be so arranged as to pass through the bosom and shirt body within the binding, not touch the binding; second, a line of stitches passing down the center of the bosom.

X Q. 36. Supposing the binding of the dicky referred to were a half an inch, can you conceive of any other way of fastening such a dicky to the shirt body except by a second line of stitches through the binding?

A. I can. Complainants' Exhibit Defendants' Shirt No. 2 shows such an arrangement. The width of the binding is immaterial, being simply a question of degree. Such an arrangement would produce a fly edge.

Adjourned to to-morrow, February 2d, at 10.30 a. m., same place.

NEW YORK, *February* 2*d*, 1886.

Met, pursuant to adjournment, — 10.30 a. m., same place.
Present: Same parties.

Examination continued:

X Q. 37. Referring to that part of answer 5 in which you say, "Referring to Complainants' Exhibit Defendants' Shirt No. 2, I am clearly of the opinion that the change in location of this line of
48 stitching is entirely immaterial. It performs the same office in exactly the same way, and I consider it as an evident attempt to avoid the arrangement of parts shown in complainants'

patent and in all essential particulars an equivalent therefor.' Now, if at the time of the Cluett patent it was not new to stick on dickies, as described by you, upon a shirt body with a stitch inside of or away from the binding, as in Complainants' — Defendants' Shirt No. 2, would it have been new to have attached a shirt bosom to the shirt body as shown and described in the Cluett patent?

A. I have construed the Cluett patent to be for the article as a whole a completed shirt in which the edges and loose threads of the bosom or bosom and shirt body were pocketed or in effect included. I am not aware of any shirt made prior to the complainants' patent arranged as described in the question, to wit, a shirt body and a shirt bosom provided with a binding. The Cluett patent is the first in the state of the art that I am aware of which shows a bound bosom attached to a shirt body in any manner—that is, wherein the shirt is adapted to be laundried to be finished.

X Q. 38. I repeat former question, with the additional statement that it is a hypothetical question; that it does not assume that at the time of the Cluett patent it was not new to stitch bound bosoms upon shirt bodies with the stitch inside of the binding; but, assuming that it was not new, whether it would have been new at the time of the Cluett patent to have attached a shirt bosom to the shirt body, as shown and described in the Cluett patent. I do not mean to imply that you have testified at any time that bound dickies or bound bosom shirts were sewed upon shirt bodies. The dicky referred to in my previous question is a detached bosom, marked Benjamin Detached Bosom, for identification, W. H. B., N. P.

49 Question objected to on the ground that it is capable of more than one interpretation; and, further, for the reason that it does not specify as to the arrangement or disposition of the material composing the shirt body or of the material composing the shirt bosom; and counsel for complainants suggests that for the sake of clearness and certainty counsel for defendants submit to the witness either the model of a shirt in regard to which he would inquire or a sketch representing the relations of the parts completely as to which he desires to be informed in order to prevent ambiguity and consequent misunderstanding.

A. Supposing that it was not new to attach a dicky such as I have drawn to a shirt body, I am clearly of the opinion that it would have been new to attach a bound bosom by the methods described in complainants' patent. My reasons for this opinion are that the complainants' patent describes three several modes in which a bosom can be attached to a shirt body, in each of which the intent of the mode and the disposition of the several parts had an effect to and was for the purpose of not only securing the bosom to the shirt body, but also including or practically concealing the raw or selvedge edges and loose threads. I do not see that the arrangement suggested in the question, taking the dicky as drawn by me, would have in effect produced the same result—that is, the completed article in its entirety would have differed in a measure from the completed article in complainants' patent.

X Q. 39. Supposing that prior to the date of the Cluett patent bound dickies similar to the one drawn by you had been sewed to shirt bodies and the seam attaching the dicky to the shirt body had been inside of the binding, would it have been new or invention at the date of the Cluett patent to sew a bound dicky similar to
50 the one drawn by you upon a shirt body, the seam attaching the dicky to the shirt body being on the binding, the construction referred to resembling figure 3 of the Cluett patent, the dicky being represented by the bosom in figure 3.

A. The arrangement described in the question differs from that shown in figure 3 of complainants' patent. I am of the opinion that it would have been new to have attached the bosom to a shirt body in the manner shown and described in complainants' patent. My reason for this opinion is that the line of stitching shown in figure 3 of complainants' patent does more than merely attach the bosom to the shirt body. In other words, it secures the bosom and at the same time includes the raw and selvedge edges of the several parts.

X Q. 40. Former question repeated, with the request to answer the same with a yes or no. The point whether the binding *or* in the dicky in figure 3 covers raw or selvedge edges or whether the dicky or bound bosom shown in figure 3 was round or square or consisted of several layers of material or one may for the purpose of the question be entirely left out of consideration.

A. I am of the opinion that there was clearly invention, and would answer the question by yes, without reservation.

X Q. 41. Then I understand you to say clearly and without reservation that if at the date of the Cluett patent bound dickies were sewed to shirt bodies, the stitch sewing the bound dicky to the shirt body being inside of and not on the binding, it would have nevertheless been new and required invention to sew a bound dicky upon a shirt body, the seam sewing the dicky to the body being on the binding. Please answer the question by yes or no, and, if I have misunderstood you, please confine yourself to pointing out in what respect, and do not answer the balance of the question for the present.

51 A. Counsel for defendants seems not to have understood my answers to the foregoing questions. I have stated decidedly that it was my opinion that the method of attaching a bound bosom to a shirt body by a line of stitching passing through the binding was new and did require invention, providing such line of stitching performed a new office and produced a new result not shown in the arrangement supposed in the question.

X Q. 42. Will you please point out what you mean in your last answer that counsel for defendants seems not to have understood your foregoing answers, and point out specifically in what respects this failure on his part relates to?

A. Counsel for defendants has asked me whether I considered it invention to attach the bosom to the shirt body by a line of stitching differently placed from that supposed in his hypothetical question. I have endeavored to answer the question in my previous answer, which I repeat: That if the line of stitching by being differently

placed produces a new result, thereby making a better article, that there is no question as to the invention. I don't see how I can answer the question any more plainly.

X Q. 43. Referring to the detached bosom marked Benjamin Detached Bosom, for identification, W. H. B., N. P., what did the binding there shown cover?

A. The binding shown in the sketch by me covered the edges of the two layers of bosom.

X Q. 44. Now, supposing that the dicky referred to in your former answer had been sewed upon a shirt body by a stitch inside and not on the binding prior to the date of the Cluett patent, would it have been invention or new to have sewed such a dicky upon a shirt body by a separate line of stitching running through the binding?

A. It would have been new, for the reason that such line of stitching running through the binding would have produced a new result.

52 X Q. 45. Were the raw and selvedge edges in the Benjamin detached bosom pocketed and covered by the binding so as prevent their unraveling?

A. The edges of the bosom were covered and pocketed by the binding, and consequently would have prevented unraveling.

X Q. 46. Now, then, will you tell us what you mean in your last answer but one when you state that such line of stitching running through the binding would have produced a new result? Please explain the new result.

A. I have made a sketch showing two views, marked figures 1 and 2, horizontal sections through a shirt bosom and a shirt body. Referring to figure 1, *a a* represent the two layers of the bosom, and *b* the shirt body, and *c* the binding; *d*, the first line of stitching, secures the binding to the bosom, and *f* the line of stitching which secures the bosom to the shirt body, this being the arrangement supposed in the hypothetical question. It will be observed that the binding which covers the edge of the bosom is folded at its upper edge, marked *h*, and is left free on its lower edge, marked *g*. Consequently the line of stitching *f*, which passes through the bosom and the shirt body, does not include the point *g* of the binding, which is consequently left free and in a position to unravel. The selvedge edge, in other words, is not pocketed. Referring to figure 2, the same letters indicate the same parts. It will be observed that the point *g* of the binding is included by the line of stitching *f*, which passes through the binding, the bosom, and the shirt body, thereby in effect pocketing or concealing the raw and selvedge edge *g*.

The sketches made by witness are marked Benjamin Detached Bosom and Body No. 2, for identification, W. H. B., N. P.

X Q. 47. You know the meaning of the term shop device, do you?

53 A. I do.

X Q 48. Undoubtedly you are familiar with a large number of shop devices?

A. I am.

X Q. 49. Now, do you really mean to be understood as saying that if at the date of the Cluett patent it was old to sew shirt bosoms to shirt bodies, and it was also old to bind shirt bosoms, detached bosoms, or dickies with a binding covering the raw or selvedge edges of the different layers of the bound bosom or dicky, that it was more than the commonest and simplest kind of a shop device to sew a bound bosom in any form upon a shirt body by a separate line of stitching through such binding? Please answer this question by yes or no.

Counsel for complainants objects to the question on the ground of ambiguity.

A. I am of the opinion that it was more than a shop device to make the change suggested in the question, and I arrive at this opinion from the fact that the prior state of the art—prior to the Cluett patent—does not disclose any such arrangement, and, further, that the arrangement as suggested has been extensively copied by the entire trade. I think there is nothing so true in the whole history of invention as that arrangements which seem most evident after having been seen are the least likely to be put in practice and remain the longest undiscovered.

X Q. 50. When did the manufacture of shirts in large quantities in factories begin?

A. I am not positive as to dates.

X Q. 51. Wasn't it about 1870?

A. From 1870 to '72 somewhere.

X Q. 52. Before 1870 or '72 the wholesale manufacture of shirts in large quantities was comparatively unknown, and small
54 establishments fitted customers and made a dozen or more shirts for each customer; is not that so?

A. I don't know anything about it. I have no recollection as to dates in the matter. Shirt factories may have been in existence in 1850. All I remember my attention was first called to the matter in 1870 or 1872.

X Q. 53. Before open-back laundered completed shirts came into common use what kind of white shirts were in use?

A. I have no personal knowledge in the matter, as open-back shirts came into use when I was very young.

X Q. 54. Isn't it a fact that on or about the years '68, '9, and '70, '71 open-back white laundered shirts first came into common use?

A. I am only able to answer the question by hearsay. I believe that the dates stated are in all probability correct.

X Q. 55. Please describe to us flannel bosom shirts in use at or about the time of the Cluett invention.

A. An article of wearing apparel made of flannel, shaped as a shirt, was in use at the date of complainants' patent. It was made of soft, flexible flannel and consisted of a back, a front, yoke, collar, sleeves, and cuffs, open in front, I believe.

X Q. 56. Describe the bosom.

A. The bosom was integral with the front—all of one piece.

X Q. 57. Please describe the ruffle bosom shirt in use prior to the Cluett invention.

Question objected to as incompetent on cross-examination; and if the counsel for defendants desire to test the knowledge of the witness he is requested to submit a model or sample of the shirt of which he inquires.

55 A. I understand that a shirt was made consisting of a shirt body with a cut-out front and a shirt bosom formed of a single layer of linen separated into a number of ruffles, the ruffling running vertically or horizontally with the shirt bosom. I have also seen shirts where the bosom was divided into a number of parts, each part enclosing a ruffle, an open-front shirt, and the ruffling attached to the body of the bosom by stitching in any suitable manner.

X Q. 58. These shirts described by you were bound, were they not?

A. I have no personal knowledge to that effect.

Recess for an hour, until a quarter to two.

Met pursuant to adjournment.
Parties present.

X Q. 59. Please tell us what other devices of attaching shirt bosoms to shirt bodies, besides the one shown in Benjamin Shirt No. 1, were in use prior to the date of the Cluett patent.

A. Folded or pleated bosoms were in use prior to the date of complainants' patent, and in some instances were sewn over the shirt body—that is, the edge of the bosom turned in and a line of stitching passing along the edge of the bosom and through the shirt body; this form in contradistinction to the form described by me and shown in Benjamin Shirt No. 1.

X Q. 60. Are you familiar with other devices besides those mentioned by you?

A. Two forms described by me are those which I understand to have been in use prior to the date of complainants' patent, and are all that are shown or described in the prior state of the art.

X Q. 61. You have deliberately made the answer, have you not, that the prior state of the art discloses only the two varieties of attaching shirt bodies to shirt bosoms described by you?

56 A. I am aware of no other form shown in the state of the art and relating to shirts with starched bosoms.

X Q. 62. Please make a diagram of the two varieties of shirts referred to in your previous answer, showing the different styles of attaching shirt bosoms to bodies prior to the Cluett patent.

A. I have made such diagram, showing two horizontal sections, figure one showing a shirt body, *s*, with an open or cut-out front, and a bosom formed of two layers, B B, having their edges turned in and so arranged as regards the body of the shirt that the edge of the shirt body lies between the plies of the bosom and free, the whole adapted to be connected together by means of the line of stitching D. This shirt opens at the back. Figure 2 shows a shirt body, S, with

a single bosom—that is, one of a single layer applied over the shirt body; a pleated bosom, the edges of which are turned in and left free, and the bosom attached to the shirt body by the line of stitches D. The letter C indicates the pleats of the bosom. This is an open-front shirt.

The drawing is marked Benjamin Exhibit R, for identification, W. H. B., N. P.

X Q. 63. In view of your former testimony I presume that your opinion is that the raw edges of the bosom shown in figure 1 and figure 2 would unravel?

A. In the subsequent process of laundering the raw edges would undoubtedly unravel.

X Q. 64. Please look at Defendants' Exhibit Salmon Patent, December, 23, 1885, L. T., N. P., and state in what way you find the bosom attached to the shirt body.

57 Question objected to as incompetent on the ground that the patent is the best evidence of the fact called for.

A. I have examined the patent referred to in the question and I find a shirt body and a shirt bosom, the bosom being below the level of the shirt body; the edges of the shirt body appear to be turned in and under, and the bosom is connected to the shirt by two lines of stitching passing through the shirt body and shirt bosom, thus leaving the raw and selvedge edges of both the bosom and the shirt body free on the under side of the shirt.

X Q. 65. This patent is prior to the date of the Cluett patent, is it not?

A. Yes.

X Q. 66. It is a different device than either of the two shown by you in Benjamin Exhibit R, is it not?

A. It is.

X Q. 67. Now, inasmuch as your investigation of the state of the art is based mainly, if not altogether, upon an examination of patents obtained prior to the Cluett patent, and you have failed to point out this mode of attachment, is it not possible that there were hundreds of different modes of attachment, so-called shop devices, in vogue and in use in the manufacture of shirts long prior to this Cluett patent, but which the alleged inventors of these devices did not patent, and with which therefore you would not be familiar?

A. It is impossible for me to state what shop devices existed prior to the date of complainants' patent. It is also not reasonable to expect that I should know and be fully conversant with all of the large number of patents preceding that of complainants. My attention has been directed to patents which bear upon complainants' device, and as the last patent, namely, that of Salmon, by me
58 described, does not in my opinion have any bearing upon that of complainants, I have not paid any especial attention to it.

Adjourned to February 6th, at 10.30 a. m.

NEW YORK, *February 6th*, 1886.

Met pursuant to adjournment.
Present: Counsel present as before.
Cross-examination closed.

Redirect examination:

R. D. Q. 68. Did you have any particular shirt in mind in making your answer to X Q. 13? And, if yea, please point out the same.

A. I had in mind the construction of shirt and bosom shown and described in U. S. patent No. 153,367, dated July 31st, 1874, J. H. Myers, inventor. The method of turning in the edges of the external layer of the bosom before securing to the shirt body is practically the same as was commonly in use prior to date of complainants' patent.

R. D. Q. 69. In answer to cross-question 18, you mention shirt-bosoms as having been bound previous to the date of complainants' patent. Did you there refer to a bosom secured to a shirt or to a detached bosom, which?

A. I referred to a detached bosom—that is, what was commonly known as a dickie.

R. D. Q. 70. In cross-question 35 you are asked if you could conceive of any other practical way of sewing a dicky upon a shirt bosom than by a second row of stitching through the binding. Has any other method of securing such a dicky to a shirt body occurred to you since the last meeting? And, if so, please describe it.

Objected to as not a proper question on the redirect examination.

59 A. I said in answer to cross-question 35 that I could conceive of several, and I mentioned one method which could be used. I had in mind several others at the same time, one of which was to secure the bosom to the shirt body by stitching the upper edge of the bosom—that is, the portion at the neck—to the shirt body at the neck, thus leaving the lower part of the bosom free from the shirt.

R. D. Q. 71. Referring to your answer to cross-question 46, what do you mean in describing figure 2, in the latter part of the answer, by the statement that the "point *g* of the binding is included," &c.?

A. Referring to my answer to cross-question 46, I stated that *g* referred to the free edge of the binding arranged under the layers of the shirt bosom—that is, if a bias or straight strip were used. Figures 1 and 2 of the drawing show the relation of this point *g* to the body of the shirt when the article is finished. Thus I described figure 1, the point *g* as external to the layers of the shirt body and not within the line of stitching *f;* in other words, free on the outside of the shirt and in a condition to unravel. In figure 2 I have shown the point *g* within the line of stitching *f*, and thus in practically the same position as would be occupied by the selvedge edges were the shirt formed in accordance with the method in Benjamin Shirt No. 1, and by pocketing and concealing—as stated in the last line of my answer to cross-question 46—I had reference to pocketing and concealing, as regards the external surface or part of the com-

pleted shirt, in contradistinction to pocketing and concealing of the raw and selvedge edges, so that such edges should not stray, as described by me in construing the Cluett patent. The edges *g* are pocketed so far as the external surface of the shirt is concerned, but not so far as the shirt bosom and shirt body when combined are affected thereby.

60 R. D. Q. 72. The arrangement shown in the sketch Benjamin Detached Bosom and Body No. 2, what is the structure shown—that of an actual shirt made prior to the patent or a mere hypothetical shirt, which?

A. A purely hypothetical shirt, an arrangement supposed by the counsel for defendant.

R. D. Q. 73. Referring to your explanation of the "Exhibit Salmon Patent," will you please explain in detail the condition of the raw and selvedge edges of the bosom and shirt body?

A. Referring to figure 3 of the Salmon patent, which is stated to be a horizontal section illustrating the manner of forming the seam for connecting the bosom to the shirt body, the shirt bosom appears in the drawing as but a single layer, and I do not find any statement in the specification that more than a single layer is used. The edges of this layer are left free and uncontrolled. The edges of the shirt body, which are turned under and over the shirt bosom, extend beyond the edges of the shirt bosom and are also free and uncontrolled. As a result the completed shirt would have a double selvedge edge, free on the under part of the shirt, in a condition to absorb starch, and probably be a source of irritation to the wearer.

Redirect examination closed.

Recross-examination by Mr. RAEGENER:

R. X Q. 74. Referring to U. S. patent 153,367, July 31, 1874, J. H. Myers, figure 4, there are two rows of stitches through the bosom, uniting the bosom with the body, are there not?

A. I do not so understand the drawing, I find one row of stitching through the layers of the bosom—that is, the outer ply of the bosom is turned over the second layer and a line of stitching secures the two layers together, and a second line of stitching secures the bosom to the shirt body.

61 R. X Q. 75. Referring to Benjamin Detached Bosom and Body No. 2, the unravelling of the loose edge of the binding at the point *g* would be prevented, would it not, if the lower part of the binding were turned in similar to the upper part of the binding at *h*?

A. It would prevent unravelling, and if so formed would be in effect identical with the device shown in the Cluett patent—practically the same thing.

R. X Q. 76. At the date of the Cluett patent it was therefore old to sew shirt bosoms to shirt bodies by two rows of stitching; one row of stitching uniting the two layers of the bosom, as shown in the Meyer's patent, and the other line of stitching uniting the two layers of bosom to the shirt body?

A. It was old at the date of the Cluett patent to secure unbound bosoms to shirt bodies by two or more lines of stitching.

R. X Q. 77. It was also old at the date of the Cluett patent to bind a detached bosom or dicky with a strip of binding?

A. If counsel will explain what he means by a strip of binding I will answer the question.

R. X Q. 78. At the date of the Cluett patent it was old to bind two or more layers in a detached bosom or dicky with a strip of material pocketing the loose or selvedge edges of the layers of the bosom, was it not?

A. The term "strip of material" is not definite. If the counsel will explain what he means by "strip of material" I will answer the question.

R. X Q. 79. (Question repeated, with the request to the witness to point out in what respect the question is unintelligible to him as an expert, in view of the previous examination.)

A. A strip of material may be a plain strip or it may be a bias strip. I prefer to make my answer definite, and I prefer the counsel to make his question specific.

R. X Q. 80. (Question repeated, and if witness wishes to
62 qualify his answer as to whether at the date of the Cluett patent there were dickies in which the binding was a bias strip or a plain strip he can do so.)

A. I am not aware that dickies or detached bosoms were made prior to or at the date of the Cluett patent provided with a binding made of a piece of material either bias or straight. In answer to cross-question 27 I used the words "strip of material folded on their outer edge"—that is, the strip of material which bound the bosom folded on its outer edge; and in making this answer I had in mind cross-question 19, which asked me to conceive of such a bosom. My answer, therefore, to cross-question 27 was made under a misapprehension, and the drawing marked Benjamin Detached Bosom, W. H. B., N. P., having been made at the same time, must be viewed in the light of this correction. So far as I am personally aware, and so far as the state of the art has disclosed, a tape or braid binding was the style of binding used prior and at the date of complainants' patent. Such a binding is shown at *c*, figures 1 and 2 of U. S. letters patent No. 156,155, dated October 20th, 1874, George E. Hall, inventor.

R. X Q. 81. Since giving your testimony on February 2d, 1886, you have carefully gone over the same, have you not?

A. I have read it through once, consuming about fifteen minutes' time in doing so, since that time.

R. X Q. 82. Prior to the opening of the examination to-day you were in consultation with Mr. Skilton, complainants' solicitor, for more than twenty minutes, were you not?

A. Prior to the opening of the examination Mr. Skilton asked me to explain certain points in my answers to cross-questions which he did not clearly understand. That is the extent of the consultation.

R. X Q. 83. Referring to your answer to R. X Q. 75, to what
63 part of the Cluett patent does the identity in effect apply; that part in which the bosom is applied to the shirt or that in which it is inserted?

A. It refers to a laid-on bosom.

GEO. H. BENJAMIN.

Subscribed and sworn to before me this 27th day of September, 1886.

[SEAL.] WM. H. BUTTERWORTH,
Notary Public in and for the City and County of New York.

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

SIR: Please take notice that we shall proceed to take proofs for final hearing herein on behalf of complainants, under the 67th rule in equity, in accordance with the statutes in such cases made and provided and in accordance with the stipulation entered into herein Oct. 12th, 1885, before Wm. H. Butterworth, a notary public, at the office of Robert Cluett, No. 441 River St., Troy, N. Y., Feb. 16, 1886, at 10 a. m. You are invited to attend and cross-examine the witnesses.

The examination will be continued from day to day.

Dated Feb. 15th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, solicitor; Louis C. Raegener, of counsel for defendants.

64 Testimony taken on the part of complainants under and pursuant to notice and consent (hereunto annexed) before William H. Butterworth, a notary public, at the office of Robert Cluett, No. 441 River street, Troy, New York, on Tuesday, February 16th, 1886, at 10 a. m.

Present: James A. Skilton, Esq., solicitor and of counsel for complainants, and Louis C. Raegener, Esq., of counsel for defendants, with David Tim, Esq., solicitor for defendants.

ROBERT CLUETT, a witness produced on the part of the complainants, was duly sworn, and testified as follows in answer to questions put by JAMES A. SKILTON:

Q. 1. What is your name, age, residence, and occupation?

A. Robert Cluett; 41 years of age; residence, Troy, New York; shirt and collar manufacturer.

Q. 2. By what name or title is the shirt made under the letters patent No. 156,880 here in suit known in the trade?

A. It is known as the "Monarch bound-bosom shirt."

Q. 3. By whom was that name or title given to this shirt and adopted?

A. By me.

Q. 4. And when?

A. At its introduction.

Q. 5. In what way was that name or title used or made known to the public?

A. It was made known to the public by the label upon the boxes, and by the stamp upon the shirt, and by signs for displaying in store windows, and by other means of advertising.

Q. 6. How extensively was it made known to the public?

65 A. It was advertised through trade papers and, so far as I can judge, was generally known throughout the country.

Q. 7. At the time when you gave the name of "Monarch bound-bosom shirt" to the manufacture under this patent what other shirts, if any, were known, advertised, and manufactured for the market as bound-bosom shirts or shirts in which there was a binding applied to the edge of the shirt bosom—of dress shirts?

Objected to on the ground that it has not yet been shown at what time the witness put the Monarch bound-bosom shirts in the market; furthermore, it has not been shown that witness was an expert at that time or had sufficient knowledge of the trade entitling him to give an opinion on such subjects. Usual notice given.

A. Not any.

Q. 8. At what time did you first obtain knowledge of the manufacture and sale of shirts other than your own or those manufactured by George B. Cluett, Bro. & Company which had a binding applied to the edge of the bosom of the shirt?

A. So far as I can remember I did not see such a shirt nor was I aware of such a shirt being made prior to 1882.

Q. 9. When did you first introduce the Monarch bound-bosom shirt in the market or when was it first introduced?

A. I began the manufacture and sale of this shirt about the time the patent was granted; possibly a little before or very soon after; certainly not later than December, 1874.

Q. 10. What experience, if any, had you previously had in the manufacture of dress shirts and kindred goods?

66 A. Previous to 1874 I had had no extended experience in the manufacture of shirts, my attention having been devoted to the manufacture of collars and cuffs.

Q. 11. What experience had you had in the manufacture of collars and cuffs, and for how long prior to 1874?

A. I had had a very general experience, having devoted much time and thought to these goods for nearly twelve years, my connection with the collar business dating from 1862.

Q. 12. What were your duties in connection with the collar and cuff manufacture during the period mentioned in the last answer?

A. My duties were varied. My first connection with the business was as a boy to make himself generally useful, and from that posi-

tion I rose to that of having charge of the manufacturing. I cannot definitely state when I was placed in charge of the manufacturing, but am of the opinion that it was about 1867.

Q. 13. What are your duties now—that is, what branch of the business have you in charge at the present time?

A. Our business is divided into what we call the collar and cuff department and the shirt department. My entire attention is devoted to the latter, it being my duty to follow the manufacture of shirts from the beginning to the end.

Q. 14. Have you patented other improvements in shirts beside those covered by the patent here in question?

Objected to as irrelevant and immaterial.

A. I have; several.

Q. 15. What was the date of your first application for letters patent for improvements in shirts?

Objected to on the ground that the patent is the best evidence, and, furthermore, that it is immaterial and irrelevant.

67 A. April 8, 1873, for letters patent No. 161,205, dated March 23, 1875.

Q. 16. Did other shirt manufacturers, subsequent to the issue of the patent here in suit, acknowledge your rights or the rights of your assignees thereunder and show their respect therefor? If yea, please mention names.

A. Yes; Herman, Aukam & Company, manufacturers, of this city; Hutchinson, Pierce & Company, of New York city, and Richardson & Gertz, of Boston. There may be other names that I do not at this moment recall.

Q. 17. Did any of these parties pay license fees under the patent here in suit? If yea, which ones?

A. They did, Herman, Aukam & Company being the first, their license bearing date July 21, 1875.

Q. 18. Did the firm of Rothschild Brothers & Gutmann, of New York city, at any time consent to respect your rights under the letters patent here in suit?

Objected to as incompetent and calling for a conclusion of law, and that it is not the best evidence.

A. They did.

Q. 19. When?

A. In 1875 or possibly the latter part of '74.

Q. 20. Did they do so after notification of your claim under the patent?

Same objection, with usual notice.

A. They did, their attention being called to the fact that we had information leading us to the belief that they were infringers.

21 Q. Please state whether there were any means used in connection with the supposed infringement by Rothschild Brothers &
68 Gutmann to ascertain whether such infringements were being committed; and, if yea, state what means were used.

Objected to unless witness speaks from personal knowledge and not from what he heard or has been told him.

A. A detective was placed in the factory of Rothschild Brothers & Gutmann to carefully investigate it, and reported from time to time, the result being that they were not discovered to be infringers.

Q. 22. Please state whether the firm of Rothschild Brothers & Gutmann ever applied for a license under the patent here in suit.

Answer No. 21 is objected to by counsel for defendants on the ground that it is a conclusion of law whether Rothschild Brothers & Gutmann infringed at the time that the detective investigated, and, moreover, that it is hearsay evidence and not the best evidence, and a motion will be made to strike out the same.

A. They did apply for a license within a few months of the issuing of a patent.

Q. 23. Was such license granted to that concern; and, if not, why not?

A. Such license was not granted, as Hermann, Aukam & Company made serious objections, and under our understanding with the latter firm we did not feel at liberty to grant the license asked for without their consent.

Q. 24. Through whom were your communications with the firm of Rothschild Brothers & Gutmann made?

A. Through our New York attorney, Mr. James A. Skilton.

Q. 25. How did you obtain the information given in your
69 testimony here as to the action and wishes of Rothschild Brothers & Gutmann—that is, by what medium?

A. Through the letters of our attorney, Mr. James A. Skilton.

Q. 26. Where are those letters at the present time, if you know?

A. The letters alluded to were destroyed at the burning of our factory, in March, 1880.

Q. 27. You had no personal communication with Messrs. Rothschild Brothers & Gutmann on the subject, had you?

A. So far as I can now recall, we did not.

Defendants' counsel objects to all the testimony concerning transactions with Rothschild Brothers & Gutmann on the ground that it is not competent evidence, the witness merely giving hearsay statements obtained from letters sent to him by his counsel and written by his said counsel; therefore the whole testimony concerning the detective and negotiations between witness' firm, between Rothschild Brothers & Gutmann, as to the question whether they were infringers, whether they did or did not apply for license, whether the same was or was not given them, and a notice is given to strike out the same.

Q. 28. During the discussions and intercommunications between George B. Cluett, Bro. & Company and Rothschild Brothers & Gutmann in connection with the matters as to which you have just testified, did you take part in the consideration of these matters by your firm and aid in the negotiations referred to?

Objected to as incompetent. Usual notice. This question
70 begs the point under consideration, as the matter is not what witness or his firm had under consideration concerning Rothschild Brothers & Gutmann, but as to what Rothschild Brothers & Gutmann did.

A. I participated both in the discussions and correspondence.

Q. 29. Please state whether or not it is a part of your individual recollection as to the reason you have given why a license was not granted to Rothschild Brothers & Gutmann, and that an application for license was made to your concern by them.

Objected to as immaterial and incompetent. Usual notice. No evidence that this firm made a personal application to this witness orally or by letter.

A. I cannot state positively that I recollect the circumstances fully attending the correspondence in question.

Q. 30. Can you produce a sample of the advertisement or placard used by you in making known the shirt manufactured by your concern under the letters patent here in question? And, if yea, please do so.

A. I can, and now produce one of the signs referred to in the question.

Complainants' counsel offers the sign referred to in the last answer in evidence, and the same is marked "Complainants' Exhibit Cluett Sign," Wm. H. B., N. P.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 31. Do you sell other than shirts made in accordance with your patent, November 17, 1874, under the name of Monarch shirts?

A. We do.

71 X Q. 32. You referred to a license granted to Hermann, Aukam & Company; have you that license here?

A. I have not.

X Q. 33. Who has that license?

A. I do not know positively, but think it may be in the possession of our attorney, Mr. James A. Skilton.

X Q. 34. When did you last see it?

A. I cannot definitely say.

X Q. 35. About when?

A. I do not think I have seen it since shortly after it was executed, and would not state positively that I then saw it.

X Q. 36. Who collects the royalty?

A. I think in some cases the royalty was paid direct to the firm and in others to Mr. Skilton.

X Q. 37. Then it was not an annual royalty?

A. Returns were made, so far as I now recall, monthly, the payments, I believe, also being monthly.

X Q. 38. You speak of these royalties and payments as things of the past; when, if ever, did they cease?

A. The license was for five years from July, 1875, and at the expiration of the term was not renewed.

X Q. 39. Are you in the receipt of royalties or license fees from any firm or firms at present for this patent in suit?

A. I am not aware that we are, but believe that one or more firms who are making use of our invention have recently agreed to pay royalties on the same.

Objected to as not responsive—that is, the latter part of the answer—and also that the witness' belief is not material. His knowledge is what we want.

X Q. 40. When did you cease to receive these royalties under this patent from any party?

72 A. I cannot give a definite answer to this question, as the collection of royalties and similar matters are attended to by another member of the firm.

X Q. 41. Are you prepared to swear that your firm has been in the receipt of royalty or moneys for privileges granted under the patent in suit at any time for several years past?

A. I can say positively that we have received royalties, but will not say at what time or to what extent for the reason given in my previous answer, that these matters have the attention of another member of the firm.

X Q. 42. What is the largest amount of money that your firm ever received from any firm or party for privileges granted under your letters patent?

A. I do not know.

X Q. 43. Can you find out from your books?

A. I think it is doubtful, as many of our books were destroyed in the burning of our factory.

X Q. 44. Will you swear that you have received more than $1,000 from the grant of privileges under your letters patent from all of the parties together to whom you granted the privilege?

A. I have previously stated that I am not familiar with the amount or amounts paid, and can only repeat that I do not know.

X Q. 45. Then you will not swear that the total received by you from all sources for privileges granted by you under this patent exceeds the sum of $500, will you?

A. I will not swear that it exceeds $500 or that it does not exceed $5,000.

X Q. 46. And yet you are the inventor of the invention described in the patent in suit and a member of the firm, the complainants in this suit?

A. In a firm doing a business of the extent of ours, divided into various departments and composed of four members, it will be readily seen that it is impossible for one member of the firm to be familiar with the details of every department. Each mem-

73 ber of our firm has his particular branch of the business to follow. As another member of the firm has followed the de-

tails relating to the granting of licenses, it is not at all strange that I am not familiar with all the facts concerning this question of license.

Cross-examination closed.

ROBERT CLUETT.

Subscribed and sworn to before me this 16th day of March, 1886.

WM. H. BUTTERWORTH,
[SEAL.] *Notary Public in and for the City and County of New York.*

NEW YORK, *March 13th*, 1886.

Met pursuant to notice.

Present: James A. Skilton, Esq., for complainants; Louis C. Raegener, Esq., for defendants.

Mr. Skilton offers in evidence six samples, showing the Cluett shirt in several different forms, the samples consisting not of full and complete shirts, but of the shirt fronts and bosoms only in the first stage of manufacture and before being made up with the back, sleeves, and other portions of the shirt, the bosom, front, and binding being thus left so as to be easily inspected. These samples are offered in evidence as specimens showing different forms of shirt manufactured by the complainants herein under letters patent No. 156,880, dated November 17, 1874, here in suit, and the same are marked as follows:

74 COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 1.

This exhibit shows the laid-on bosom in the first stage of manufacture—that is, with the bosom bound and put in place ready to be secured to the shirt front.

COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 2.

This sample is the same as No. 1, with this addition, viz., that the bosom and binding are secured to the shirt front.

COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 3.

This sample, No. 3, shows the inserted bosom in the first stage of manufacture and before the final securing line of stitching is made.

COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 4.

This sample, No. 4, is the same as No. 3, with the addition of a line of stitching which finally secures the bosom in the shirt front and completes the binding of the bosom.

COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 5.

Sample No. 5 is another form of inserted bosom, in which the bosom is bound and inserted with one line of stitches.

COMPLAINANTS' EXHIBIT CLUETT SHIRT No. 6.

This sample, No. 6, is another form of laid-on bosom, in which the bosom is secured upon the shirt front by means of a line of stitching inside of the line of stitching which secures the binding to the bosom.

75 Defendants' counsel objects to the admission of these six exhibits on the ground that it is not shown that these various styles of shirts were made by the complainants; but defendants' counsel will permit complainants to prove that these several styles of shirts were made by complainants when the rebuttal testimony is taken by complainants.

Solicitor for complainants offers in evidence an agreement entered into between the firm of Hutchinson, Pierce & Company, of New York city, and James A. Skilton, attorney for George B. Cluett, Brother & Co., and the same is marked Complainants' Exhibit Hutchinson, Pierce & Co. Agreement.

Also a similar agreement with Richardson & Gertz, of Boston, Massachusetts, and the same is marked Complainants' Exhibit Richardson and Gertz Agreement.

Also a similar agreement with John L. Wilson and Edward T. Craven, and the same is marked Complainants' Exhibit Wilson and Craven Agreement.

Defendants' counsel consents that the original exhibits may remain in possession of complainants' counsel provided the same are produced on demand in the course of this litigation whenever they may be required, and that copies of the said exhibits may be substituted in the place of the originals to remain in the possession of the examiner.

Mr. Skilton also offers in evidence the "Exhibit A" referred
76 to in the Hutchinson, Pierce & Co. agreement, and the same is marked Complainants' Exhibit Hutchinson, Pierce & Co. Exhibit A.

Also the "Exhibit A" referred to in the Wilson-Craven agreement, and the same is marked Complainants' Exhibit Wilson-Craven Exhibit A.

Mr. Skilton also offers in evidence a certified copy of letters patent No. 156,880, granted to Robert Cluett November 17, 1884, and the same is marked Complainants' Exhibit Complainants' Patent.

The complainants here rest and close their *prima facie* proof.

77 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on the part of the plaintiffs in rebuttal, under and pursuant to the 67th rule of the Supreme Court of the United States, as amended, before William H. Butterworth, Esq., notary public, by consent.

NEW YORK, *May 27th*, 1886.

Present: J. A. Skilton, Esq., of counsel for complainants, and L. C. Raegener, Esq., of counsel for defendants.

Mr. HENRY C. SPRIEGEL, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Henry C. Spriegel; age, 63 going on 64; 2027 East Cumberland street, Philadelphia; shirt-cutter.

78 Q. 2. How long have you been engaged in your occupation as shirt-cutter.

A. From April, '56, to the present time.

Q. 3. Please give the name of any firms for whom you have worked as shirt-cutter since April, 1856.

A. For Maurice Rosenbach & Steppacher, first Rosenbach & Co., and then Rosenbach & Steppacher.

Q. 4. Between what dates did you work for Rosenbach & Co. and Rosenbach & Steppacher?

A. I can't tell exactly the time; Mr. Steppacher was engaged as a salesman, and then a couple of years after he went into the firm. Together I was there from April, '56, till 1877.

Q. 5. With Rosenbach & Co. and Rosenbach & Steppacher during that period?

A. Yes.

Q. 6. What were your duties while with them between 1856 and 1877?

A. I was cutter there from 1856 till 1861; after that I was foreman of that concern.

Q. 7. What were your duties as foreman?

A. My duties was to give the cutters directions how to cut the goods and in what style, and to give out the work to the outside hands and the inside hands, and receive it again—the work—when it came in.

Q. 8 What kind of shirts did the concern or concerns make during the period mentioned, and while you were in their employ?

A. They made all kinds of shirts—all that was a-going; they made white shirts, flannel shirts, overalls, cheviot shirts.

Q. 9. Please examine the shirt I now place in your hands which is marked Defendants' Exhibit A, with particular reference to the strip of material at the edge of the bosom, and state whether Messrs. Rosenbach & Co. or Messrs. Rosenbach & Steppacher manufactured shirts and shirt bosoms like this Defendants' Exhibit A while you were in their employ.

79 A. My answer is, no, sir. I say so after careful examination of the shirt.

Q. 10. State whether at any time between the years 1865 and 1875 you ever gave out shirt fronts or shirt fronts and shirts for your concern in which the edge of the bosom was to be bound by a strip of material?

A. I am not positive as to the fancy shirts, but I am positive as to white shirts like this; as to the latter, I know that I never gave them out.

Q. 11. Do you know Alexander Sinzheimer, of Philadelphia, formerly a partner with Deutsch?

A. Yes, sir.

Q. 12. How long have you known him?

A. I have known him since he came to this country, and I knew his father before him in this country.

Q. 13. Did Mr. Sinzheimer to your knowledge make shirt fronts for Rosenbach & Co.?

A. Yes, sir.

Q. 14. When?

A. He made them from the time he came to this country until the firm failed, succeeding his father, who also made shirt fronts for the firm.

Q. 15. Please describe the shirt fronts made for Rosenbach & Co. by Mr. Alexander Sinzheimer.

A. He made open-front pleated bosoms first, and then all kinds of open backs.

Q. 16. You mean fronts for open-back shirts, I suppose?

A. Yes; closed fronts.

Q. 17. How were the closed fronts made or formed?

A. We generally made two-thirds with box pleats, and the rest with French pleats, generally shield shape. Only one quality cut round, shaped like Exhibit A.

Q. 18. What quality was this last?

A. Well, a white shirt; it wasn't the very best and it wasn't poor—a good shirt.

Q. 19. How were the bosoms made by Sinzheimer for

80 Rosenbach & Co. constructed on the edge of the bosom? Describe them fully.

A. The edges of the bosoms was raw, just as the cutter cut it.

Q. 20. Who put these bosoms made by Sinzheimer on or inserted them into the shirts; by whom was that part of the work done?

A. They were done part by the hands in the house, and the most part was sent out to the outside parties—to the shirt-makers.

Q. 21. Who gave out this work after the fronts were returned by Sinzheimer?

A. I sent them up to the cutting-room to trim up the bosoms to be sent out; then they came down again and put on the bench for me to give them out to the outside hands, and to the inside ones also, and they were marked how many were inside each bundle by the cutter.

Q. 22. By trimming I understand you mean that the different parts of the shirt—the bosom, bands, &c.—were assorted together properly for the shirt-makers to make them up?

A. Yes; and I instructed them how to make them up.

Q. 23. Who received these shirts when they were completed?

A. I did. I received them and examined every shirt to see whether they were done right.

Q. 24. Were there any strips of bias-cut material sent out with the bosoms for Mr. Sinzheimer or to him to be made up?

A. Not in white—not white strips.

Q. 25. Do you recollect that there were any sent out of any kind—bias cut or any other—to Mr. Sinzheimer?

A. Fancy strips were sent out—blue and pink chintz.

Q. 26. Where were these to be put on the shirt fronts—what part of the fronts?

81 A. They were put on down front, round the cuff and collar—I mean to make a fancy edge to the box pleat.

Interrupted.—Defendants' counsel states that, having interrupted the witness as to the meaning of the words down front, witness stated that he would not be positive as to whether the strip was put all the way round the edge, and, if this is not a true statement, let the witness change same.

Q. 27. What do you call this fancy edge of the box pleat—what is the name for it?

A. Corded.

Q. 28. What do you mean by corded?

A. When there is a string or cord laid in and stitched in tight.

Q. 29. Stitched into what?

A. Into the fancy strip.

Q. 30. I understand you to say that you are not sure these fancy strips containing the cord were not put on the edge of the bosom as well as on the edge of the box pleat—is that so—by Sinzheimer?

A. I know Sinzheimer finished it and put the cord in, but I am not positive that they were round the bosom; I don't recollect. He did put them round the collar and the cuffs.

Q. 31. If Mr. Sinzheimer did put these corded strips around the edge of the bosom, please state whether or not it was done in the same style as that put on to the edge of the box pleat in the same way, if that is the matter in regard to which you are in doubt.

A. Only the cording. I can only say it was not put on in the same way.

Q. 32. Why not?

A. Because it was left open for the hands to stitch it down on the body.

Q. 33. That is the back ply, I suppose?

A. Yes. I mean the back ply of the cording.

82 Q. 34. Can you produce a sample showing how this cording on the edge of the box pleat was done?

A. Yes, sir; it is done like the sample I now produce.

The sample is marked "Henry C. Spriegel Corded Strip, May 27, 1886," for identification, and signed by the witness.

Q. 35. Please state whether or not Mr. Alexander Sinzheimer, prior to 1875—January, 1875—ever made any shirt fronts for Rosenbach & Co. in which the edge of the front or bosom was bound by a strip of material like the front of Defendants' Exhibit A.

A. No, sir.

Q. 36. Did Alexander Sinzheimer, prior to the failure of Rosenbach & Co. in 1877, make for that concern any shirt fronts in which the edge of the bosom was bound in any other way beside that shown in Defendants' Exhibit A?

A. My answer is this: No, sir. He may have corded some, but I don't remember that he ever did.

Q. 37. Please state whether between the years of 1856 and 1877 any other parties besides Sinzheimer ever made bound shirt fronts—shirt fronts bound on the edge—for Rosenbach & Co.?

A. We had two other parties make shirt fronts, but they never made any bound fronts, to my recollection.

Q. 38. Did Rosenbach & Co. prior to 1877 have in their store for sale or did they sell shirts—either percale or white shirts—in which the edge of the bosom was bound by a strip of material?

A. Never sold any in white with the binding. As to the fancy I am not positive.

Direct examination closed.

83 Cross-examination by LOUIS C. RAEGENER, Esq.:

X Q. 39. How well do you know Alexander Sinzheimer?

A. I was in his place of business and seen him in the store of Rosenbach & Steppacher often; know him only in a business way.

X Q. 40. What was and is his reputation in business?

Question objected to as not proper cross-examination, the witness not having been questioned as to the character of Mr. Sinzheimer on the direct.

A. In business it was good.

X Q. 41. Have you ever had reason to doubt that he was a truthful man?

Objection repeated.

A. No, sir.

X Q. 42. How many men were in your shop while you were the superintendent—workingmen, I mean?

A. We had in the house as high as between 60 and 70 girls. Outside we had about 250; also five cutters, besides boys.

X Q. 43. You have stated in your answer to the 32d question that this cording around the edge of the bosom was left open for the hands to stitch it down on the body. Will you please illustrate this by taking a few sheets of paper?

A. I have done so.

And it is marked on the piece representing the body with the signature of the witness, and as "Spriegel Model No. 1, New York, May 27, 1886," for identification.

84 X Q. 44. Then when you state that Mr. Sinzheimer prior to 1877 did not make any shirt fronts in which the edge of the bosom was bound like Exhibit A you don't mean to be understood as saying that he may not have made shirt fronts having a corded edge or binding of a different style than that shown in Exhibit A, and my question has reference not only to white shirts, but to all kinds of shirt fronts which he made for you?

A. I don't understand that right.

X Q. 45. Please tell us the various kinds of shirt fronts, white and colored, which Sinzheimer made for your house.

A. He made bosoms the way they are in the market now—the regular bosom without binding. To be set in or set on the hands had to turn the edge of the material in in putting it on or in the shirts after it came back from Mr. Sinzheimer. He also made calico, percale, fancy fronts, and they were raw, same as the white shirts, on the edge of the bosom; the hands had to turn them in. That is all I can tell.

X Q. 46. Do you know Peter Michel?

A. Yes, sir.

X Q. 47. How long have you known him?

A. Well, I guess 18 or 20 years.

X Q. 48. How well do you know him?

A. He made bosoms for Mr. Rosenbach and Steppacher same as Mr. Sinzheimer. I have seen him often there, and I worked alongside of him about six years ago at Sinzheimer & Deutsch's.

X Q. 49. What is his reputation for truth and veracity, so far as you know?

Question objected to on the ground that it is not proper cross-examination, no question having been put to the witness on the direct as to the character of Peter Michel or his reputation for veracity.

A. I guess his reputation is pretty good, so far as I know; he is a hard-working man.

85 X Q. 50. What have you been doing since you left the employ of Rosenbach & Steppacher?

A. I was sick for nine months right after the Centennial. When I got well I went to Sinzheimer & Deutsch's and stayed with them till the spring of '78. I was there four months. Then I commenced business for myself in making button-holes and finishing

shirts for two years and a half. Then I went to Jonas Kahn; about '81. I stayed there about three years or three years and a half, and then went where I am now—with Kohn & Kohn.

Cross-examination closed.

Recess.

After recess same parties reassembled.

Redirect examination by Mr. SKILTON:

R. D. Q. 51. Did Mr. Peter Michel ever make any shirt fronts for Rosenbach & Company, of Philadelphia, either white or fancy, in which the outside edges of the bosom were bound like Defendants' Exhibit A prior to January, 1875?

A. No, sir.

R. D. Q. 52. Did Mr. Sinzheimer ever make any such shirt prior to January, 1875?

A. Not to my knowledge. There was no more made in 1875.

R. D. Q. 53. I mean were there any such shirt fronts made by Alexander Sinzheimer for Rosenbach & Co. at any time before January, 1875—that is, between 1856 and 1875—like Defendants' Exhibit A, either white or fancy?

A. No, sir.

R. D. Q. 54. I hold in my hand a piece of paper cut round at the bottom with a folded strip of paper pinned to one side, which was made by you during your cross-examination. I understood you to say that this piece represented the method in which the
86 corded strip was secured to the edge of the box pleat in some instances. Is that what you intended the paper model for or to illustrate?

A. Yes.

The same is marked for identification "Spriegel Corded Box Pleat, New York, May 27, 1886," and bears the signature of the witness, Spriegel.

R. D. Q. 55. Will you please make a duplicate of the paper model made by you in answer to Mr. Raegener's question?

A. Yes; I have done so.

The same is marked like the original with the word "duplicate" added.

HENRY C. SPRIEGEL.

Sworn to before me this 27th day of May, 1886.

WM. H. BUTTERWORTH,
Notary Public in and for the City and County of New York.

[SEAL.]

NEW YORK, *May* 27, 1886.

JULIUS F. SACHSE, being duly sworn on behalf of complainants, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Julius F. Sachse; 44; Leopard, Chester county, Pennsylvania; designer, cutter, and manufacturer of fine shirts.

Q. 2. What experience have you had in connection with various styles of shirt manufacture in this and other countries?

A. I have been in the business as a manufacturer practically since 1860.

87 Q. 3. Have you made any special studies of shirt manufacture; and, if yea, in what manner and for what purpose?

A. Yes; I have, to swing myself at the head of my profession. I made special investigation in preparing for the Vienna Exhibition of 1873, the local Philadelphia Exhibition of 1874. These studies were preparing myself for our exhibit to be made at the Centennial Exhibition, 1876. Before making our F. Sachse & Son exhibit for Vienna I thoroughly posted myself as to what goods and styles were made by the different manufacturers of Philadelphia and New York.

Q. 4. What different exhibitions have you prepared exhibits for?

A. For Paris in 1867; Vienna, 1873; Philadelphia, 1874; Lancaster and Reading, 1875; Centennial, 1876; Paris, 1878.

Q. 5. Did your firm, F. Sachse & Son, receive any awards at any of these exhibitions; and, if yea, at what one—in the department of shirts and shirt manufacture?

A. Medals, the highest award given at Paris, 1867; Vienna, 1873; Centennial, 1876, and Paris in 1878. All the specimens exhibited were designed and cut by myself. I here produce the three official notifications of these awards and the catalogue of the awards to American exhibitors at the Paris Exposition of 1867 wherein bronze medal No. 177 is the number of the award to F. Sachse & Son, of Philadelphia, for shirts.

Q. 6. What special steps, if any, did you take to inform yourself as to the shirt manufacture in Vienna or any other part of Europe?

A. My agent had instructions to send me anything that was new or novel or description of any such novelties or any literature relating or bearing on the cutting or drafting of shirts—my agent at Vienna I refer to. In response to those orders I got a number of papers and pamphlets, several models and apparatus for new

88 systems of cutting and drafting then in vogue in Germany and France.

Q. 7. Did you ever prepare an exhibit showing the development of the shirt manufacture historically; and, if yea, when and for what purpose?

A. My exhibts at Vienna, the Centennial, and Paris were educational, showing all the different processes of shirt manufacture, the one at the Centennial especially; that was manufactured in 1875. I strove to show every style of shirt that was then manufactured or had been manufactured up to that time in this country or in Europe

as far as known to me. It included every process from cutting and from laundering to the completed laundered product.

Q. 8. Were you connected in any way with what was known as the Elm Station murder mystery in Philadelphia; and, if yea, in what manner?

A. I was. I was called in by the authorities as an expert to see if it was possible to identify the shirts found on the body of the murdered man that might lead to a clue of his identity.

Q. 9. Did your advice enable the authorities to find who the murdered man was through your knowledge of the details of the manufacture of the shirts found on the body?

A. It eventually led to the identification of the murdered man, and also eventually brought the murderer to justice.

Q. 10. Have you in your possession any statements or copies of any publication setting forth the facts of that case and your connection with the same; and, if yea, will you please produce them?

A. I have and will produce them.

Objected to, as this portion of the testimony is immaterial, consisting of hearsay statements and publications by others, alleged
89 copies from newspapers, the same being secondary evidence and not the best.

The matter here produced is here put in evidence as follows: Four newspaper slips pasted on brown paper and marked Complainants' Exhibit Sachse Newspaper Slips, William H. Butterworth, N. P.

Also three and a half pages of type-written matter marked Complainants' Exhibit Sachse Type-Written Slips, Wm. H. B., N. P.

Q. 11. Did you know Rosenbach & Company, shirt manufacturers of Philadelphia?

A. I did. They were of Third street above Market.

Q. 12. Were you familiar with the different styles of shirts made by Rosenbach & Company between 1865 and January, 1875?

A. I was in a general way. I mean by that that I knew as much about their goods as I did about any other wholesale shirt house. We were in the retail business and bought most of our low-priced goods.

Q. 13. Did you keep posted during that time as to the different styles and patterns of shirts produced in the Philadelphia market?

A. It was my business to do so—a part of my business—and I did so.

Q. 14. I read to you the testimony of Alexander Sinzheimer herein given on behalf of defendants from Q. 3 to A. 7, inclusive. After having read, as above stated, I submit for your examination Defendants' Exhibit A, referred to in question 6, and ask whether Rosenbach & Company made and sold a shirt bound on the edge like Exhibit A or having a strip secured to the edge of the bosom like Exhibit A prior to January, 1875.

90 Objected to as incompetent, no foundation having been laid for witness' testimony in regard to shirts sold by Rosen-

bach & Company and the usual notice given. Witness can only testify as to his knowledge, but not state as a fact what was or was not sold by Rosenbach & Company.

A. I never knew or saw a shirt made similar to this (Exhibit A) to be sold or made put on the Philadelphia market by Rosenbach & Co. or anybody else prior to January, 1875. If such a shirt had been made and sold on the market at that time I should have known it and would have had a specimen in my Centennial Exhibition exhibit. The bosoms that were made at that time were a different shape from this. They were cut square at the bottom, and prior to 1875 there were very few, if any, tabs used on stock shirts.

Q. 15. How many different specimens and styles of bosoms did you have in your Centennial exhibit?

A. About two hundred and no two alike—a few over or a few under two hundred.

Q. 16. What effort had you made to procure different styles of shirts for that exhibit?

A. I had made every effort it was possible to make to procure the different styles of what the manufacturers were making.

Q. 17. Do you remember the exhibit of Rosenbach & Co. at the Centennial Exhibition?

A. I do.

Q. 18. Did that exhibit contain a shirt made like Exhibit A, with a strip of material secured to the edge of the bosom or front and the front set on the body of the shirt as in Defendants' Exhibit A?

A. Not to my knowledge. Their exhibit consisted, if my memory serves me right, mainly of flannel shirts, drawers, and overalls. Had there been anything special or noteworthy about their
91 white shirts I should have made a note of it, as I went over and noted every shirt exhibit in the building. If there had been a binding on the bosom I should certainly have made a note of it. That would have been new to me in the process of making white shirts.

Q. 19. Please state whether your examination into the state of the art of shirt-making or your studies in the matter extended back into the past and as to what had been made by other shirt manufacturers for years past or not.

A. They did; the present and past both.

Q. 20. Please state what occasion you had to examine the stock of the different shirt merchants in the city of Philadelphia prior to January, 1875.

A. During the season we bought our low-priced shirts, flannel shirts and drawers. I was the buyer for F. Sachse & Son, and as such visited the different wholesale houses and kept my eyes open to see what I could learn, being always on the lookout for new styles or improvements.

Direct examination closed.

Cross-examination by LOUIS C. RAEGENER, Esq.:

X Q. 21. Did you ever make any investigation of the patents granted for improvements in shirts?

A. Well, only such as would come under my notice in a general way in the trade papers. There was always a description in the trade papers when a patent was granted.

X Q. 22. When was the Cluett patent here in suit granted?

A. It was granted in 1875, to the best of my knowledge.

X Q. 23. When did you first know this as a fact?

92 A. Well, I think the first positive knowledge I had of that was when we bought the shirts or when they were offered to us for sale.

X Q. 24. When was that?

A. It was after the Centennial Exhibition—I mean after the close of the Centennial Exhibition—after November, 1876.

X Q. 25. Then, if I understood you correctly, it was after November, 1876, that you learnt of the existence of the Cluett patent and saw for the first time the bound-bosom shirt?

A. I may have seen a notice of the patent when it was granted, but I am positive that I did not see a shirt or any shirt similar to Cluetts' with the binding extending around the bosom until I saw their shirts.

X Q. 26. Then in the seventeen dozen shirts which you had on exhibition at the Centennial Exhibition you did not have a bound-bosom shirt; is that so?

A. No, sir; neither like Cluetts' or Exhibit A.

X Q. 27. Did you have among your exhibits at the Centennial Exhibition any bound-bosom shirts?

A. No, sir.

X Q. 28. Can you state positively what was the earliest knowledge that you had of the existence of the Cluett bound-bosom shirt or of the fact that the Cluetts had a patent on a bound-bosom shirt?

A. After the Centennial I didn't pay as much attention as to what was being done in the trade, my object having been achieved in obtaining the award; but I tell you frankly that if I had known or remembered the Cluett patent I should have written to Cluetts' for permission to exhibit that improvement among my exhibits. I couldn't give a specific date when I first saw that shirt.

X Q. 29. Was it within a year from November, 1876?

93 A. I wouldn't like to answer that question. We were buying goods from the Cluetts—collars and cuffs. I suppose they showed me the shirts as soon as they had them on the market in Philadelphia.

X Q. 30. Will you swear positively that the Cluett shirt was on the market in Philadelphia before November, 1877?

A. I wouldn't like to answer that question.

X Q. 31. Will you swear positively that the Cluett shirt was on the Philadelphia market prior to November, 1878?

A. I don't want to swear to any dates in that matter, as I did not charge my memory with the first time those goods were shown me.

X Q. 32. When these goods were offered to you for the first time did their novel appearance make any impression on you or did they appear to you as embodying any new improvement with which before that time you were not familiar?

A. If my memory serves me right, I was favorably impressed with them—with the novelty—as it made a very sightly shirt, and was an improvement on the way stock shirts had theretofore been made.

X Q. 33. Is it possible that you did not see this Cluett shirt until November, 1878?

A. I did not state when I first saw the shirt.

X Q. 34. Question repeated.

A. I do not recollect the date when I saw the shirt the first time.

Cross-examination closed.

JULIUS F. SACHSE.

Sworn to before me this 27th day of May, 1886.

WM. H. BUTTERWORTH,

[SEAL.] *Notary Public in and for the City and County of New York.*

94 NEW YORK, *May* 27, 1886.

Mr. CHARLES CLUCAS, being sworn on behalf of complainants, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Charles Clucas; 122 West Broadway; publisher; age, 38.

Q. 2. Please examine the thirty-four numbers of Men's Furnishing Trade Review now submitted to you, and state what they are.

A. They are the issues of a regular monthly publication for the years 1878, 1879, and 1880.

Q. 3. Please state whether they were all published and issued in the months and years marked thereon.

A. They were. These are the originals, and I am still the publisher of the Review.

CHAS. CLUCAS.

Sworn to before me this 27th day of May, 1886.

WM. H. BUTTERWORTH,

[SEAL.] *Notary Public in and for the City and County of New York.*

95 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York. In Equity.

GEORGE B. CLUETT *et al.*
against
HORACE B. CLAFLIN *et al.*

Please take notice that we shall proceed to take proofs in rebuttal for final hearing on the part of the complainants in the above-

entitled suit, under the 67th rule in equity, before Archer McLearn, notary public, at his office, No. 400 Chestnut street, Philadelphia, Pennsylvania, on Thursday, the 9th day of September, 1886, at 11 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day at such time and place and without further notice.

Dated New York, September 6th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

September 6, 1886.—Due and timely service accepted.

DAVID TIM AND
LOUIS C. RAEGENER,
For Defendants.

96 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants under and pursuant to notice before Archer McLearn, notary public, at his office, No. 400 Chestnut street, Philadelphia, Pennsylvania, on Thursday, the 9th day of September, 1886, at 11 o'clock in the forenoon.

Present: James A. Skilton, Esq., of counsel for complainants; David Tim, Esq., and Louis C. Raegener, Esq., of counsel for defendants.

ANNA ELIZABETH BACH, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Anna Elizabeth Bach; middle age; 323 South Fifth, Philadelphia; shirt-maker.

Q. 2. How long have you been a shirt-maker?

97 A. Since I was thirteen years of age I first commenced.

Q. 3. By whom have you been principally employed, and where?

A. By Rosenbach & Steppacher or Rosenbach & Company, North Third street, 28 North Third and two buildings opposite.

Q. 4. During what years were you in the employ of Rosenbach & Co. in the city of Philadelphia?

A. It was three years before the failure of Jay Cook; it was between three and four years that I was there before the failure of Jay Cook.

Q. 5. Where and by whom were you employed during the years 1874, '75, and the Centennial year, '76?

A. By the same firm, and also for two years after the Centennial.

Q. 6. What were your duties or what did you do while in the employ of Rosenbach & Co. or Rosenbach & Steppacher, from the time you entered their employ up to the Centennial year?

A. A greater part of the time I was in their custom department; I made custom shirts; I finished custom shirts; part of the time I had charge of stock goods, high stock goods, and part of the time I finished fine stock goods.

Q. 7. Where did your duties during this time require you to be—in what department?

A. In the manufacturing department.

Q. 8. During this time—that is, from 1870 or 1871 onward—what opportunity did you have for seeing and knowing of the different styles of shirts made and sold by Rosenbach & Co., your employers?

A. My seat was beside where Mr. Spriegel, then the foreman, was, about thirteen feet away. There were two days in the week when he took in outside work, and I had an opportunity of seeing all that passed in.

Q. 9. During the entire week?

98 A. Yes, sir; the greater part of the time I was at work making shirts myself.

Q. 10. Please examine the shirt I now put in your hands, which is marked Exhibit A, September 14, 1885, M. E. Clark, and also Def'ts' Ex. A, J. A. S., com'r, and state whether you ever saw or knew of a shirt being made and sold or sold by Rosenbach & Co. while you were in their employ which was made like Exhibit A, particularly. Please give attention in making your answer to the manner in which the bosom of the shirt is made, provided with a strip on its edge, and to the manner in which the bosom is attached to the shirt body.

A. I never saw a shirt made like this and never knew of a shirt like this being made by Rosenbach & Co. while I was in their employ.

Q. 11. Did you ever know of a shirt made in the manner described in the last question being sold by Rosenbach & Co. while you were in their employ?

A. No, sir.

Q. 12. From the opportunities had by you of knowing what sort of shirts were made or sold by Rosenbach & Company while you were in their employ do you think it possible that they could have made and sold any number of shirts made like Exhibit A in the respects stated in the previous question and shown in Exhibit A without your knowing it?

A. I don't think they could. I think it would be impossible, for I was in the general manufacturing room all the time, and that was where the outside work was delivered.

Q. 13. Please state whether you had an opportunity of observing the cutters employed by Rosenbach & Co. and the different styles of patterns they were cutting.

A. The cutters of the white shirts cut in the same room with the workers where I was; the other work was done upstairs.

99 Q. 14. While you were in the employ of Rosenbach & Co. did you ever see or know of any shirts being made or sold by that company which were made like Exhibit A, with this exception, that there were two rows of stitches through the front of the binding instead of one only?

A. No, sir; we put two rows of stitching without binding, but not with binding.

Q. 15. Do you know Alexander Sinzheimer, now of Carter alley?

A. By sight. I have known of him for a good many years.

Q. 16. While you were in the employ of Rosenbach & Co. did Alexander Sinzheimer make for Rosenbach & Co. shirt bosoms like Defendants' Exhibit A, now in your hands, or like that bosom, with this difference only, that the binding was wider and the shape of the bosom fuller at the bottom and the style of the bosom was different, but in other respects the same?

A. Not to my knowledge. I never saw a shirt made with a binding on the bosom in the building—I mean like this shirt here; that is what I have reference to.

Q. 17. Did you ever see one with the differences named in the last question?

A. No, sir.

Q. 18. I read to you questions 5, 6 and the answers thereto from the testimony of Alexander Sinzheimer, on page 73 of defendants' record herein, and I ask whether you still adhere to your previous testimony after hearing the answers of Mr. Sinzheimer or whether you wish to change the same.

A. I have answered correctly, so far as it is within my power, from the beginning.

Direct examination closed.

100 Cross-examination by Mr. RAEGENER:

X Q. 19. Do you know what is meant by a dickey?

A. Yes; there is one on Exhibit A. Some call it a tab.

X Q. 20. What kind of work did Sinzheimer do for Rosenbach?

A. He made bosoms for him, not in the building, out of the building. The goods were cut out in the building, and he took them to his home and manufactured them there.

X Q. 21. How long did he do work for Rosenbach?

A. I couldn't say exactly how long he worked for him. He has been in business for himself a good while.

X Q. 22. When did he begin doing work for Rosenbach?

A. That I couldn't say. I know he worked for him several years.

X Q. 23. Was he working for Rosenbach when you got there?

A. No, sir; he was in partnership with Deutsch, and they have failed since then.

X Q. 24. When did you get there—that is, to go to work for Rosenbach? Give the month and year as near as you can.

A. I can't tell you the year. It was three or four years before Jay Cook failed; the date I can't remember.

X Q. 25. When did Jay Cook fail?

A. I think it was in '73.

X Q. 26. What part of '73?

A. It was in the fall, I think.

X Q. 27. You lost money by this failure?

A. Yes, sir.

X Q. 28. What year did you get married?

A. I got married that very year, '73. I was about 22 or 23 when I got married.

101 X Q. 29. For whom did you work before you went to Rosenbach?

A. I was working for families, making shirts.

X Q. 30. In those days families were in the habit of buying shirt fronts, were they not?

A. Yes, sir.

X Q. 31. And part of your business consisted in sewing these shirt fronts to the shirt body?

A. Yes, sir.

X Q. 32. How were these shirt fronts finished?

A. The shirt fronts usually consisted of two, three, or four layers. They were held together by the line of stitches in the pleats. They were entirely free and unstitched on the edges, and when I sewed the bosom onto the body if it is a set-on bosom it is merely turned in—that is, the front layer of the bosom at its edge was turned over the lower layers of the bosom, the edges of which lower layers had previously been trimmed off. After the upper layer was turned in and under a row of stitching was run along the edge onto the body of the shirt, some with one and some with two rows of stitching, all the way around, thus fastening the bosom and body together, and at the bottom we put on a bosom band and also stitched that down. Some of these were square. Some were shield shaped, like Exhibit A, only at the bottom, at the tab, they were squared off and finished with a band. I now have reference to the loose shirt fronts which I put onto the shirt bodies while doing work for myself, and we also made them the same way for the stores.

X Q. 33. And shirt fronts like those about which you have testified were thus handled and sewed on the bodies by you prior to 1870?

Question objected to as incompetent, irrelevant, and improper on the cross-examination, no question having been put on the direct examination relating to the general state of the art or to the
102 state of the art in any respect outside of bound bosoms; and it is further insisted that if this question is pressed for answer and this line of examination is further continued it must be only under the condition and understanding that the witness is not the witness of complainants here in rebuttal, but is the witness of defend-

ants, and as such has no right to testify at this time, and notice is now given that motion will be made at the proper time, at the hearing or before, to strike from the record the questions and answers heretofore made or hereafter to be made on the cross-examination on this line.

Defendants' counsel will take the consequences of his cross-examination, and leaves it to be understood that he does so without any conditions or understandings of any kind with counsel on the other side.

A. I wouldn't say that before that shields were put on, but squares were put on that way ever since shirts were manufactured within my time.

X Q. 34. Now, did you ever see or know of shirt fronts, shield or square, that were different at their edges from those about which you have testified?

Same objection and objection as immaterial.

A. I never put them on any other way than I have reference to nor saw them put on any other way.

X Q. 35. Did you ever see bound shirt bosoms for sale?

A. I have of late years seen calico shirt fronts bound. The strip was put on with one seam onto the body of the shirt. The
103 band was a straight strip. It was folded and held in between the fold. The bosom and body of the shirt and one row of stitching went through the band, bosom, and body of the shirt. The edge of the band was raw. This was used for common goods.

X Q. 36. When did you first see the shirt fronts referred to in the last answer?

Last two objections repeated.

A. Late years; last six or seven years; not previous to that.

X Q. 37. What position did you hold at Rosenbach's when you entered his employment?

A. Finished custom shirts. That was why I had the opportunity of seeing all the styles.

X Q. 38. The fronts made by Sinzheimer were for what kinds of shirts?

A. According to my knowledge, he made them for all kinds of shirts.

X Q. 39. In what quantities?

A. In dozens or for an order. It would be according to the order; hundreds of dozens sometimes.

X Q. 40. When did you first see bound bosoms in the market?

A. I couldn't tell you. It is of late years; perhaps six or seven or five years. I couldn't tell exactly. I have seen them in the stores.

X Q. 41. Who finished the stock shirts at Rosenbach's?

A. Some of the fine stock I finished. As to the rest I don't know. I saw them when they were coming in to be delivered—that is, I don't know the parties personally.

X Q. 42. How many hands did Rosenbach employ?

A. That I couldn't tell; I understood sometimes a hundred sometimes more, sometimes less.

X Q. 43. When did you superintend the work or any part of the same?

104 A. The Centennial year, the year before, and the year after.

X Q. 44. Then before that time—that is, in 1873 and 1874—you did not have charge or superintend at Rosenbach's?

A. No, sir; Mr. Spriegel, he had charge.

X Q. 45. During what time was Spriegel foreman?

A. He was foreman when I went there, and remained until about the year before the Centennial, as near as I can recollect.

X Q. 46. Now, then, Mr. Alexander Sinzheimer has testified that before 1872 he made bound bosoms for M. Rosenbach & Co., where he used to go in and out daily; that a bias binding strip was used; that the strip was cut seven-eighths to one inch wide and showed on top of the bosom about three-eighths of an inch; that the shirts were open-back shirts, and that the bosoms that he made were to be set on only. He further states that he made hundreds of dozens of these bound bosoms. Some white shirt fronts were bound with colored bias percale stripes. There were also calico bosoms bound with strips of other patterns than the material constituting the bosom. He also states that the most of the bound bosoms that he made were for M. Rosenbach & Co. He says he made for manufacturers who furnished the material. I call your attention to the particularity and detail contained in so much of the testimony that I have read to you, and the fact that you have stated that you were not the superintendent and had charge of the work until 1875, and ask you, being under oath, whether you mean to state as a fact that Sinzheimer did not in 1872, '3, or '4 furnish bound bosoms to Rosenbach & Co.—whether white, fancy, or with fancy binding—or whether you mean to state that you don't think so and that you don't believe so.

105 Question objected to on the ground that the alleged quotations from the testimony of Sinzheimer are put in different words to some extent and in a different order in the foregoing question from that found in the testimony of Sinzheimer, and therefore do not correctly state the evidence given by Sinzheimer in this case; and it is submitted that the portion of the evidence given by Sinzheimer should have been read over to the witness here from the authentic record of the same; and, further, the question is objected to as being ambiguous and indefinite in expression, as was the testimony of Sinzheimer.

A. I never saw them; I never had anything to do with work of that description.

X Q. 47. What kind of work have you reference to?

A. All the work that was done in the building and came under my observation.

X Q. 48. Then it is possible that in 1872, '73, and '74 bound bosoms, whether white or fancy, made by Sinzheimer, as testified to by him, might not have come under your observation?

A. I don't think so.

X Q. 49. Are you prepared to state that Sinzheimer did not tell the truth or that he was obviously mistaken that in 1872, '3, or '4 he furnished bound bosoms to Rosenbach & Co.?

Question objected to on the ground that it is improper in form in attempting to put this witness in a position as having offered to impeach the veracity of the witness Sinzheimer or as having been offered as a witness on the part of complainants for that distinct purpose.

A. I can't answer such a question.

106 X Q. 50. Do you mean to state as a fact that you can now recollect positively—so positively that there cannot be any mistake about it—that in '72, '73, and '74 Sinzheimer did not furnish bound bosoms to Rosenbach?

A. I mean to state this way, that I never knew of it or never saw it.

X Q. 51. Did you know in '72, '73, and '74 every variety of shirt—white or fancy—that Rosenbach & Co. were selling and making?

A. All that came into the building as a general thing came under my observation.

X Q. 52. You had nothing to do with the selling?

A. Oh, no, sir; they had traveling salesmen.

X Q. 53. Did you know Peter Michel?

A. No, sir.

X Q. 54. Do you know whether he also did work for Rosenbach?

A. I do not.

X Q. 55. If he has stated that he did work for Rosenbach & Company you don't mean to contradict it?

A. No.

X Q. 56. When did you get charge of the stock-room?

A. I never had charge of the stock-room. In the year before the Centennial year and the Centennial year I had charge of the stock being manufactured.

X Q. 57. Are you prepared to say that in your stock during the years '72, '73, and '74 you did not have bound bosom shirts?

A. Only as I have shown you; never to my knowledge did any shirt like Exhibit A pass through my hands.

X Q. 58. What was it you have shown me and to what do you refer?

A. This straight piece stitched down on the side of the bosom. I showed you the way it was put in, generally colored; it was called a band.

107 X Q. 59. And what did the band referred to cover?

A. It was put on for the purpose of stitching the bosom and body together with one seam.

X Q. 60. Won't you kindly take a pair of scissors, a piece of paper, and pins and show us what you mean?

A. I have done so. I have made a model here illustrating my meaning. The same is marked Bach Model, September 9, 1886, for identification, A. McL., N. P.

X Q. 61. Will you please run a line over the bosom, band, and body so as to show how the bosom looked when completed?

A. I have done so, and the line from A to A shows the model as it must be looked at.

This model and the questions relating thereto are objected to as irrelevant, impertinent, and immaterial.

X Q. 62. Looking at the model from the front, how was the band kept down on the body at that side of the band where there is no stitch?

A. It was laundered down and would stay down anyway.

X Q. 63. On the side of the band where there is a stitch the band was folded in and under; that is so, as represented in the model?

A. As represented in the model.

X Q. 64. What kind of shirts were thus constructed?

Objection repeated.

A. Several grades; calico shirts and common shirts.

X Q. 65. When and where were they thus constructed, and by whom?

Question objected to, as the witness has previously answered
108 and the ground has been previously covered by the witness in previous answers.

A. By Rosenbach & Co., and occasionally when we had remnants that we couldn't dispose of any other way. It was not the general way of manufacturing. I couldn't tell the date; it was something that was generally done.

X Q. 66. Was this done during the entire time that you were with Rosenbach & Co. from the earliest period?

Question objected to on the ground that the witness has already answered the question as to when she saw the style of shirt referred to.

A. In my earliest period there I was not among that class of goods. I was with custom goods. I hadn't anything to do with the manufacture of remnants.

X Q. 67. Then if it was done you don't know?

A. No, sir.

X Q. 68. Then there are some things about the business of manufacturing shirts at Rosenbach's & Company that you are not familiar with?

A. Yes; such small items like that that might not come under my observation.

X Q. 69. Did you make them like this model before the failure of Jay Cook?

A. I was then in the custom department. I couldn't tell.

X Q. 70. Did you make them like this model in the years before the failure of Jay Cook?

A. I have already answered that question.

X Q. 71. Did you ever have anything to do with making ruffled full-dress shirts?

Question objected to on the ground of immateriality and irrelevancy, and on the further ground that no reference was made
109 on the direct examination of this witness to ruffled shirts, and the counsel for defendants is notified that if this question is pressed he must make the witness his own, and notice is given that motion will be made to strike out the same from the record on the grounds stated.

A. In the custom department the understanding is that the shirt-maker will understand everything about shirts. I made ruffled shirts.

X Q. 72. Were the ruffled shirts made of common stock?

A. No, sir; they are generally made for actors and gentlemen's night shirts. That is all ruffles are used on now that I know of.

X Q. 73. When were these ruffled shirts made?

A. I could not say—if an order came. They were never manufactured without an order.

X Q. 74. Did you make them in the custom department and before the failure of Jay Cook?

Objection repeated.

A. Yes, sir; they were made open bosoms.

X Q. 75. How were the ruffles fastened?

Question objected to on the ground that the witness was not asked any questions on the direct with reference to ruffled shirts, but only in respect of Defendants' Exhibit A. Previous objection repeated.

Witness is instructed not to answer the question.

Inasmuch as the witness has turned out so good a witness for defendants, defendants' counsel withdraws the question to avoid a scene in preference to taking issue on this point.

110 Counsel for complainants states that at all proper times and places and under all proper circumstances he is prepared to take up the question of ruffled shirts in all its aspects, but for the present rests upon his right to have this examination limited to proper cross-questions, properly based on the direct testimony of this witness, and, having had three or four witnesses waiting for a half day for the closing of the testimony of this witness, insists that this examination shall be proceeded with in order or otherwise be closed.

By Mr. DAVID TIM:

X Q. 76. Are you prepared to say under oath as a positive fact that Rosenbach & Company did not have in their stock during the years 1872, '3, and '4 bound-bosom shirts made by Sinzheimer or by any other person?

Question objected to on the ground that the witness has repeatedly answered all proper parts of the foregoing question.

Question withdrawn.

Cross-examination closed.

Redirect examination:

R. D. Q. 77. What opportunity did you have from the time you entered the employ of Rosenbach & Company of seeing and knowing of the different styles of shirt and shirt fronts that were cut and made in their working department?

A. I sat in the manufacturing room all the time and I had an opportunity of observing all that was done there.

111 R. D. Q. 78. What opportunity did you have for observing different styles of shirts in the stock department?

A. I sat convenient to the foreman; all orders and stock were returned to Mr. Spriegel.

R. D. Q. 79. In the answers that you have made to the cross-questions that have been put to you by Mr. Raegener have you intended to make any material change of the statements made on your direct in answer to questions put by Mr. Skilton?

A. The answers that I have given have all been correct so far as I know. I don't know of anything that I intended to change in the cross from what I said in the direct.

ANNA E. BACH.

Sworn to before me this 9th day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

Recess until 4.15 o'clock p. m.

After Recess.

Same parties present.

ELIZABETH MEADE, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Elizabeth Meade; middle age; 419 North 19th street, Philadelphia; shirt operator.

Q. 2. By whom were you first employed as a shirt operator and where?

A. First employed by M. Rosenbach & Company; in Philadelphia.

Q. 3. How many years were you in the employ of Rosenbach & Company?

112 A. I can't tell exactly how many years, but I think from 1868 or '9 to the year he failed. I don't know when he failed.

Q. 4. Where were you employed during the Centennial year?

A. With M. Rosenbach & Company.

Q. 5. Were you with M. Rosenbach & Company from 1868 or '9 till after the Centennial continuously?

A. I was with him right along.

Q. 6. Who was the foreman of the work department when you were in the employ of M. Rosenbach & Company?

A. Henry Spreigel.

Q. 7. In what room did you work?

A. When I was first employed I worked in the fourth or fifth floor. I worked for a good many years in the foreman's room.

Q. 8. I place in your hands a shirt marked Defendants' Exhibit A, Com'r J. A. S., Ex'r, and I ask you to examine the shirt particularly with reference to the strip of material secured to the bosom at or near its edge and through which a line of stitching secures the bosom to the shirt-body front, and I ask if you ever saw or knew of a shirt manufactured or sold by M. Rosenbach & Co., while you were in their employ, in which a strip was secured to the bosom as in this Exhibit A and to the shirt as in this Exhibit A.

A. No, sir.

Q. 9. Did you ever see or know of a shirt made in the respects stated in the last question like Exhibit A in which there were two lines of stitching through the front of the folded strip on the edge of the bosom?

A. No, sir; I never saw a shirt of that description there.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 10. Do you know Mrs. Ann Elizabeth Bach, the previous witness?

113 A. I know her; yes.

X Q. 11. Was she at Rosenbach's when you were there?

A. Yes.

X Q. 12. What did you do before you went to Rosenbach's?

A. I lived at home; did house-work. I had nothing to do with shirts.

X Q. 13. Mrs. Bach has told us that — Rosenbach's from the remnants they were in the habit of making shirts having a band around the edge of the bosom were united with the shirt body and shown in the Bach model, September 9, 1886, for identification, by her. Do you remember about these shirts?

A. I have seen corded shirts, but never saw band or bosom shirts except where there was a short band at the bottom of the bosom.

X Q. 14. Did you know Sinzheimer?

A. Yes, sir.

X Q. 15. And the kind of work he did for Rosenbach?

A. He made bosoms. That is all the kind of work he did for Rosenbach that I know of.

X Q. 16. Do you know all the different kinds of shirts that Rosenbach had and made and had in stock to sell?

A. Well, I know pretty well; I generally knew the styles of shirts.

X Q. 17. Will you swear that between 1870 and '74 Rosenbach neither made nor sold bound-bosom shirts, eight white or fancy color?

A. I never saw them and never heard tell of their being made.

X Q. 18. Do you know whether Sinzheimer did or did not furnish bound bosoms to Rosenbach & Co.?

A. I never heard of it.

X Q. 19. It is impossible that he should have made such bound-bosom fronts and furnished them to Rosenbach without your knowledge?

114 A. It could be possible, but I think I would have heard if he had. I was back and forth constantly in the cutting-room.

X Q. 20. Did you ever make fancy-colored shirts?

A. Yes; but I never made them with a fancy binding.

X Q. 21. What position did you hold at Rosenbach & Co.'s?

A. Shirt-maker. I made different kinds of shirts.

X Q. 22. Did you know Peter Michel?

A. No.

Examination closed.

LIZZIE MEADE.

Sworn to before me this 9th day of Sept., 1886.

ARCHER McLEARN.

[SEAL.] *Notary Public.*

KATE LECKEY, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Kate Leckey; 732 Hepburn street; seamstress or shirt-finisher; age, 35.

Q. 2. How long have you been engaged in your occupation?

A. Twenty years.

Q. 3. By whom were you first employed in Philadelphia, and in what year?

A. To the best of my recollection it was by Barth & Brothers, in 1866.

Q. 4. Who was your next employer, and when?

A. Rosenbach, in 1868 or 1869; I don't recollect which.

Q. 5. How long did you remain in the employ of M. Rosenbach & Company?

A. Till December, 1871.

115 Q. 6. I place in your hands Defendants' Exhibit A and call your attention particularly to the strip of material secured to the edge of the bosom thereof and then to or upon the shirt body by means of another second line of stitching, and I ask you if you ever saw a shirt or knew of one while you were in the employ of Rosenbach & Company in which the bosom had the strip secured in the manner described to the bosom and the body of the shirt, either as made in the work department of Rosenbach & Company or in the stock department.

A. Of course, the stock department I knew nothing at all about it. I did custom-work in the custom department. No; I never saw it. It may have been done without my knowledge; it may have been in the stock department.

Q. 7. Did you ever hear of any such shirt being made or sold by M. Rosenbach & Company while you were in their employ?

Objected to as calling for hearsay evidence.

A. No; I never did.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 8. Did you ever make fancy shirts or white shirts with fancy-colored binding?

A. No; not that I remember; not with binding; they may have had them in the stock department.

KATE LECKEY.

Sworn to before me this 9th day of September, 1886.

[SEAL.] ARCHER McLEARN,
Notary Public.

Adjourned to Friday, September 10, 1886, at 10 o'clock a. m.

116 PHILADELPHIA, PA., *Sept.* 10, 1886.

Met pursuant to adjournment at 10 o'clock a. m.

Present: Mr. Skilton, counsel for complainants; Mr. Raegener, counsel for defendants.

CATHARINE LACY, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Catharine Lacy; I am in my fiftieth year; 315 Buttonwood street, Philadelphia; operator in shirt manufactory.

Q. 2. Have you ever been forelady in a shirt manufactory establishment, and, if your answer is yes, with what firm and where?

A. With M. Rosenbach & Co., in Philadelphia.

Q. 3. When did you leave the employ of M. Rosenbach & Company?

A. Well, it was just at his failure.

Q. 4. How long were you forelady?

A. Seven years.

Q. 5. How long were you an operator?

A. Eight years.

Q. 6. And when did you first enter the employ of M. Rosenbach & Co.? Give the date as near as you are able to do so.

A. I was in New York at the time when the war broke out, in 1861, and I was at M. Rosenbach & Co.'s long before the war closed.

Q. 7. Then you were altogether in the employ of M. Rosenbach & Co. about fifteen years?

A. I was there about fifteen years, I should think.

Q. 8. Who was foreman?

A. Mr. Henry Spriegel.

117 Q. 9. Please examine the shirt I now place in your hands, which is marked Def'ts' Ex. A, Com'r J. A. S., Ex'r, and also

"R. M. Ford," and I particularly call your attention to the bosom part of the shirt and its method of attachment to the shirt-body front, and to the strip of material secured to the edge of the bosom and to the shirt material, and I wish you would state whether you ever saw or knew or not of the manufacture of such a shirt so constructed or the setting on of a bosom of a shirt in the manner just described in the establishment of M. Rosenbach & Co. during the time when you *when* were an operator there or during the time you were forelady there. Please examine the exhibit with care before making your answer.

A. No; I never saw one made like it while I was in that establishment, and I never knew of anything of the kind being made there. There was nothing of that kind done there during my time as securing such a bosom upon such a shirt in such a manner.

Q. 10. I call your attention to the fact that in Exhibit A only one of the lines of stitching in the strip at the edge of the bosom shows through on the front of the binding. During your time of employment with M. Rosenbach & Co. was there a bosom made in that establishment or finished there in which the bosom was made as described in the last question except that there were two lines of stitching shown on front of the strip?

A. No, sir; not in my time I never saw it. I am positive I never saw such a thing during my time. I know it to be so. We call this a set-on bosom.

Q. 11. What opportunity, if any, did you have to see what went on in the cutting department and manufacturing department during the time when you were forelady there? I mean what was the nature of your opportunities of knowing what was done in that establishment, and what did your duties as forelady require you to do?

118 A. I was in the cutting-room a great deal of the time, and my principal part was examining the white shirts.

Q. 12. Were all the shirt operators engaged in making laundered shirts under your observation also?

A. Yes, sir; there was a great deal of the coarse work done outside, but the fine work was always done indoors.

Q. 13. Where was the cutting of the coarse work done?

A. It was in the third story.

Q. 14. Under whose supervision?

A. Mr. Spriegel's.

Q. 15. Did you have opportunity of knowing of the styles and kinds of coarse laundered shirts that were made by M. Rosenbach & Co. during your employment by that firm?

A. I had all the opportunity of knowing what was made there in the way of bosoms. I always took particular notice of any new style.

Q. 16. Have you any means of fixing the date—that is, the year—in which you finally left the employment of M. Rosenbach & Co.? And, if you have, please state what it was.

A. I left at the failure, whenever it was.

Q. 17. Did you continue with M. Rosenbach & Co. as long as they were in business in Philadelphia?

A. Yes, sir.

Q. 18. During the time when you were forelady with M. Rosenbach & Co. did you know of their making any shirt with a bosom or bosom shirt in which a strip of material was folded over and under the edge of the bosom and secured to the shirt front?

A. Never during my time.

Q. 19. In the answers that you have made please state whether you include all kinds of bosom shirts—I mean shirts made with a bosom and to be laundered of any kind whatever.

A. Yes; I do.

119 Q. 20. And do you include fancy shirts made of percale material also?

A. Yes; all included.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 21. Do you know Anna Elizabeth Bach?

A. Yes, sir; I do.

X Q. 22. Anna Elizabeth Bach claims to have been the superintendent during the Centennial year, the year before, and the year after. Prior to that time she worked upon custom shirts at Rosenbach & Co.'s, and while superintendent or forelady she assisted Mr. Spriegel; therefore, if she was in Rosenbach's employ as superintendent while you were there, you must undoubtedly have known her?

A. Yes.

X Q. 23. Were you there when she was superintendent?

A. I don't think she was forelady there, but I think she was forelady for Mr. Brooker, at Norristown.

X Q. 24. Are you aware that Rosenbach & Co. or Rosenbach & Steppacher failed twice?

A. Yes, sir.

X Q. 25. Did you leave Rosenbach when they failed for the first time or the second time?

A. The first time.

X Q. 26. You were not in the employ of Rosenbach during the Centennial year?

A. I was during the Centennial year.

X Q. 27. What year was the Centennial?

A. I know that it was opened the 10th of May.

X Q. 28. Can you give the year?

A. No; I can't.

X Q. 29. Mr. Alexander Sinzheimer has sworn that Rosenbach failed for the first time in 1873 and for the second time in 1877; therefore, as the first failure was before the Centennial, you

120 could not well have been at Rosenbach's during the Centennial year. Is that not so?

A. No, sir; I was there during the Centennial year; that I will swear to.

X Q. 30. Do you remember in what room Mrs. Bech sat while you were there?

A. She was a finisher at that time; at one time in the operating-room; afterwards she was changed in Mr. Spriegel's room on account of finishing the customer work.

X Q. 31. Who was your foreman?

A. Mr. Spriegel.

X Q. 32. And Mr. Spreigel was your foreman during the entire time you were at Rosenbach's?

A. Yes, sir.

X Q. 33. Mrs. Bach states that Mr. Spriegel was the foreman until about the year before the Centennial, when he left. Do you recollect the circumstance of Spreigel's leaving?

A. Yes; then I took charge with the assistance of Mr. Brooker; Mr. Spriegel left on account of ill health.

X Q. 34. For how long did he leave?

A. Well, when he left he never came back to be foreman; his health wouldn't permit him.

X Q. 35. Were you ever in the employ of Rosenbach & Steppacher, under that firm name?

A. No, sir.

X Q. 36. Did you ever make shirts before you came to Rosenbach & Co.?

A. No, sir.

X Q. 37. Did you ever see shirt bosoms with fancy-colored bindings made up at Rosenbach & Co.'s from remnants?

A. No, sir.

X Q. 38. What had you to do with white shirts having fancy-colored edges round the bosom?

A. All I did was to examine them; that is all.

X Q. 39. Please describe these white shirts with fancy-colored trim.

121 A. Well, we set on the colored bosom and the colored cuffs and I examined them; that was all.

X Q. 40. I now have reference to white shirts with colored edges?

A. Now I remember white shirts with a fancy border around them.

X Q. 41. Can you remember how that was done?

A. No; I can't.

X Q. 42. Did you know Alexander Sinzheimer?

A. Yes.

X Q. 43. During what years did he do work for Rosenbach?

A. That I don't know.

X Q. 44. Do you know whether he ever did work for Rosenbach?

A. Yes, sir.

X Q. 45. Do you know the kind of work he did?

A. He made bosoms.

X Q. 46. Did you know Peter Michel?

A. No, sir; I did not. I have heard of him. I think that man is deceased. I am not sure that I know of the man you refer to.

X Q. 47. Were you familiar with all the goods kept in stock and sold by Rosenbach?

A. No, sir.

X Q. 48. If Mr. Sinzheimer swears that during the years 1872 and 1873 he made bosoms for Rosenbach & Co., that a strip of binding was put around such bosoms, sewed on, and then the bosom was sewed onto the body by Rosenbach & Co., do you wish to contradict him? The question includes white shirts, fancy-colored shirts, percale shirts, common coarse shirts.

A. I never saw them put on this way, never, referring to Exhibit A.

X Q. 49. How did you see them?

A. I didn't see them with this binding. I don't know how they were done then, the Sinzheimer bosoms.

122 X Q. 50. Did you ever, while you were at Rosenbach's, see bosoms of any kind or description put on differently than with the edges of the bosom turned in?

A. That is something I can't answer. I never saw work done this way, referring to Exhibit A; that is a question I can't answer.

X Q. 51. Did you ever see bosoms while at Rosenbach's with a band around?

A. No, sir; I don't remember of ever seeing a band.

X Q. 52. Please describe all the various ways of fastening the bosom to the body with which you became familiar while at Rosenbach's.

A. We had small pleats and large pleats, and then the bosom was sewed in. I don't think there were any set-on bosoms at all in my time. They were set-in bosoms at that time; that was the style. You might say there were no set-on bosoms at that time.

CATHARINE LACY.

Sworn to before me this 10th day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

Recess half an hour until 12.20 p. m.

After Recess.

Same counsel present.

FRANK C. BROOKER, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Frank C. Brooker; my age is 38; 2348 St. Alban's Place; salesman in shirt-manufacturing business.

123 Q. 2. If you were ever in the employ of M. Rosenbach & Co., shirt manufacturers, of Philadelphia, please state the fact and say during what period.

A. I was in the employ of M. Rosenbach & Co. from 1863 up to 1876.

Q. 3. Did Rosenbach & Co. ever fail, if you know; and, if so, when?

A. They failed in 1877.

Q. 4. Did they fail in 1873?

A. No; the business was in good condition in 1873, and they never failed in that year.

Q. 5. State the capacity in which you were employed by Rosenbach & Co.

A. I was employed there keeping the cutting account and manufacturing account. I went in as a boy and raised up to the position I held when I left.

Q. 6. In what rooms and departments were your duties performed?

A. In the stock-room and in the factory.

Q. 7. And what did you do in those departments?

A. Looked after the stock and kept the cutting account.

Q. 8. Please examine the shirt I now place in your hands, and particularly the bosom part of the same and the strip secured to the edge thereof and the method of stitching the same upon the shirt front, and state whether prior to 1875 any shirt was made in that manner or finished in that manner by or for Rosenbach & Co. The shirt I refer to is marked Def'ts' Ex. A, Com'r J. A. S., Ex'r.

A. No; I don't remember anything like that.

Q. 9. Would you have been likely to have known it if such had been the fact?

A. I think I would—I am sure I would.

Q. 10. Was there any shirt made by or for Rosenbach & Co. in the manner described in the last question—that is, with a
124 strip on the outer edge of the bosom—prior to 1875, in which there were two lines of stitching through like the one line of stitching in Exhibit A?

A. No.

Q. 11. Who was the foreman or superintendent of the factory part while you were with Rosenbach & Co.?

A. Mr. Spriegel.

Q. 12. Please mention the names of some of the women operators for Rosenbach & Co. at the time.

A. Mrs. Lacy and Lizzie Meade, Mary Clark, Mrs. Bach, and a great many others.

Q. 13. My questions, in which I asked you about Exhibit A, were intended to cover every style of laundried shirt, whether white, percale, or colored. What did your answers cover?

A. No; I never remember any made that way.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 14. Please tell us how shirts were made at Rosenbach's different from Exhibit A.

A. What we made was a white shirt with a fancy edge down the center that was put on with what I would call a binding. It was a fancy strip of material. It was put on the edge of the center pleat. It included about four ply of the bosom. We made every style of shirt, and we made one with a fancy cord on the edge of the centre pleat—just a fancy cord in different colors, black, blue, and red.

Then we made everything else in a white line—in a shirt line. We had pleated bosoms, we had round bosoms and square bosoms. The round were something like Exhibit A. Then we had shield-shaped bosoms.

X Q. 15. During what years did you make the shirt with a fancy strip of material round the edge of the centre pleat?

125 A. As near as possible, I think 1874.

X Q. 16. Earlier than that?

A. No; not that I can remember.

X Q. 17. During the first years while you were at Rosenbach's your duties were of less importance?

A. Yes.

X Q. 18. Is it not therefore possible that shirt bosoms with a fancy binding on the centre pleat were made before 1874 without your knowledge?

A. Not with us; not to my knowledge.

X Q. 19. Now did you, at Rosenbach's, make or sell shirts with a fancy strip around the outer edge of the bosom?

A. Not to my knowledge.

X Q. 20. Could they not have been made or sold without your knowledge?

A. No, sir.

X Q. 21. Can you tell us how shirts were made up with remnants of various materials?

A. No; of course that fancy strip might have been made out of remnants.

X Q. 22. Did you know Alexander Sinzheimer?

A. I do.

X Q. 23. Do you know the work he did for Rosenbach?

A. Yes, sir.

X Q. 24. Do you know Peter Michel?

A. Yes.

X Q. 25. Do you know the work he did for Rosenbach & Co.?

A. Yes, sir.

X Q. 26. Please tell us what Sinzheimer and Michel did for Rosenbach.

A. Sinzheimer—as far as I can remember—Sinzheimer used to do all our good work—all our good bosoms. He used to cut the bosoms and make them; that's all.

X Q. 27. What did he cut, and how did he make them?

126 A. He used to make white bosoms, shield fronts, and he used to make this fancy strip on the centre pleat.

X Q. 28. How much of the bosom did he make?

A. He used to make the entire bosom.

X Q. 29. Who furnished him with the material?

A. M. Rosenbach & Co.

X Q. 30. In what condition was the material when it was furnished to Sinzheimer?

A. It was given to him in pieces, so many yards.

X Q. 31. Then Sinzheimer cut it into bosoms?

A. Yes.

X Q. 32. And in what condition was the bosom returned to M. Rosenbach & Co.?

A. Made up, ready to put in the shirt.

X Q. 33. In what quantities did Sinzheimer make bosoms for M. Rosenbach & Co.?

A. He would make them from a dozen up to a hundred dozen.

X Q. 34. How was the material furnished to Michel?

A. Michel was furnished in smaller quantities, the same way.

X Q. 35. Mrs. Bach has testified that occasionally, at Rosenbach's, shirt bosoms were made with fancy-colored bands around the entire outer edge of the bosoms. What do you know about such shirts?

A. I don't recollect anything like that. I think what Mrs. Bach means was with a fancy cord on the pleat.

X Q. 36. Mrs. Bach did not mean that; and to show you what she did mean I show you Bach Model, September 9, 1886, for identification, A. McL., N. P., and repeat the former question.

A. I never remembered that.

X Q. 37. What duties did Mrs. Bach perform at Rosenbach's?

A. Mrs. Bach used to finish; put in the button-holes.

X Q. 38. Mrs. Bach would be likely to know as much, if not more, of the particular class of shirts which she handled while at Rosenbach's as you would in a general way, would she not?

127

A. I think she would.

X Q. 39. Therefore, if Mrs. Bach has testified in cross-answer 32, which I now proceed to read to you, can you recollect whether at Rosenbach's, while you were there, set-on bosoms as described in that answer were made and sewed on the shirt bodies in the way there described?

A. Yes; they were so made at Rosenbach's.

X Q. 40. Mrs. Bach, at one time before the Centennial year and during the Centennial year, was a sort of a forewoman or superintendent assisting Spriegel, reading cross-question and answer 43?

A. I don't remember that.

X Q. 41. I now read you X Q. and answers 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, of Mrs. Bach's testimony. I now ask you whether Mrs. Bach would not be likely to know what she, with her own hands, made at Rosenbach, and whether she would not just as likely to be right in her testimony as you who had charge of the business in a general way.

A. I think she would.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 42. Was the material, according to your recollection, always sent to Sinzheimer & Michel uncut?

A. Yes, as far as I remember.

FRANK C. BROOKER.

Sworn to before me this 10th day of September, 1886.
[SEAL.] ARCHER McLEARN,
Notary Public.

Recess for an hour until 2.30 o'clock p. m.

128 Met after recess at 3.05 p. m.

DEWITT C. FRANCE, a witness produced on behalf of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Dewitt C. France; about 37 years old; No. 11 North Fifth street; shirt and overall manufacturer.

Q. 2. Where and how were you occupied between the years 1870 and 1875?

A. Well, I was occupied a portion of that time with Walter & Hutton, and a portion of that time I was occupied in other business. I left Walter & Hutton some time in '71 and returned again in June or July, 1875. I was with Walter & Hutton from 1868, '9, to '71, until the fall of '71.

Q. 3. Were you with a shirt-house from 1871 to 1875?

A. No; I was in the oil-cloth business.

Q. 4. What were your duties in 1870 and 1871 with Walter & Hutton?

A. I did a little of both. I was cutting and I was in stock during that time—that is, I was in the manufacturing department and in the store department.

Q. 5. Please examine the Exhibit A, which I now place in your hands, and state whether during the time you were in the employ of Walter & Hutton you saw or knew of the manufacture or sale by them of a shirt in which the bosom was provided with a strip and secured to the shirt in the manner shown in this exhibit.

A. No; I don't remember. In fact, I don't think there was. I don't think there was any such shirt made or sold by them.

Q. 6. Was you familiar with the general shirt trade in Philadelphia in 1870 or 1871, and particularly was you familiar with
129 the styles of shirts at that time manufactured and sold by Rosenbach & Company?

A. No; I am not prepared to testify about Rosenbach. All I am prepared to say is what I saw at Walter & Hutton's.

Q. 7. Did you ever see or know of a shirt being made or sold by Walter & Hutton when you were in their employ in which the bosom was attached to the shirt in the same manner as in Exhibit A, with the exception of an additional line of stitching showing on the inner edge and front of the strip?

A. No; I never saw anything like that.

Direct examination closed.

Cross-examination by Mr. RAEGNER:

X Q. 8. While you were at Walter & Hutton's were they making shield-shaped bosom shirts?

A. Yes; they were doing that.

X Q. 9. Of what kind of goods?

A. They made in white and calico; principally pleat shirts made in those days—square bosom. In 1875 and 1876 we got onto the shield shape. It may have been earlier than that while I was away. In 1875 I went back to Walter & Hutton.

X Q. 10. In 1870 and 1871 how were shirt fronts attached to the shirt bodies at Walter & Hutton's.

A. Well, as near as I can recollect they were made in pleated-front shirts, same as those in style now; just the plain pleat front; numerous pleats; three on a side or half a dozen on a side; no underlining at all; just the plain linen.

X Q. 11. Did they make white shirts with fancy-colored trimming?

A. Yes; that was in 1875. They didn't previous to that; fancy on the edge of the centre pleat.

X Q. 12. In 1870 or 1871 were fancy strips put upon goods?

130 A. I don't remember of any.

X Q. 13. What other styles of bosoms and shirts were made by Walter & Hutton in 1870 and 1871?

A. I don't remember of their making anything at all but the pleats, straight bosom, square.

X Q. 14. Haven't you said before that in 1870 and 1871 Walter & Hutton were also making shield-shaped bosoms?

A. I didn't mean to say it. I will take it back if I said so.

Signature and jurat waived.

Defendants' counsel offers in evidence the model made by Mrs. Bach, and the same is marked "Bach Model, Sept. 9, '86," for identification, A. McL., N. P.

Adjourned subject to notice.

131 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

CLUETT *et al.*
vs.
CLAFLIN *et al.*

SIR: Please take notice that I shall proceed to take proofs in rebuttal for final hearing herein on behalf of plaintiffs, under the 67th rule in equity and in accordance with the statutes in such cases made and provided, before a competent official, in the parlor of the Fifth Avenue Hotel, on Fifth street, in the city of Troy, New York, on September 14, 1886, at 10 o'clock a. m. You are invited to attend and cross-examine the witnesses.

The examination will be continued from day to day.

Dated New York, September 11, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor, and Louis C. Raegener, Esq., of counsel for defendants.

September 11, 1886.—Due and timely service accepted.

DAVID TIM,
LOUIS C. RAEGENER,
For Defendants.

132 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under the 67th rule in equity and pursuant to notice attached hereto, before Orange S. Ingram, Esq., notary public, in a parlor of the Fifth Avenue Hotel, on Fifth street, in the city of Troy, New York, on Tuesday, September 14, 1886, at 10 o'clock in the forenoon.

Present: James A. Skilton, Esq., of counsel for complainants; Louis C. Raegener, Esq., of counsel for defendants.

WILLIAM J. BLAKELEY, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
133 A. William J. Blakeley; 47 next birthday; Oakwood avenue between Middleberg and Canal; machinist.
Q. 2. By whom are you employed?
A. Geo. B. Cluett, Bro. & Co.
Q. 3. How long have you been in their employ as machinist?
A. I think from the latter part of 1865.
Q. 4. What was the nature of the business at that time, in 1865?
A. Manufacturing ladies' collars and cuffs; also gentlemen's collars and cuffs.
Q. 5. Can you give the date when the firm first began to manufacture shirts, approximately?
A. Somewheres in the latter part of 1868.
Q. 6. Where was the store located from which the firm first sold gentlemen's laundered shirts?
A. River and Broadway.

Q. 7. I place in your hands a photograph. Please examine it and state what it is.

A. It is a photograph of the store of which I have just spoken.

Mr. Skilton offers the photograph in evidence on behalf of complainants, and the same is marked Complainants' Exhibit Cluetts' Store No. 1, O. S. I., N. P.

Defendants' counsel objects to the admission of this exhibit, and also to this line of examination, provided the object is to show that it is that complainants at first had a small store and small factory, and in course of time became the proprietors of a large establishment, on the ground that this is immaterial, irrelevant, and incompetent testimony, and, moreover, if requested, defendants' counsel stands ready to admit such to be the fact.

Q. 8. Where was the second store of the Cluetts located?

134 A. Cannon Place.

Q. 9. When the store was in Cannon Place where was the factory located?

A. In River street, opposite the bridge.

Q. 10. Can you produce a cut or photograph of the building? And, if yea, please do so.

A. I can, and I here produce it—a cut.

Mr. Skilton offers in evidence the matter found on pages 607 to 617, inclusive, on page 611 of which appears the cut referred to in the last answer on behalf of complainants, these pages being found in a publication entitled "The Great Industries of the United States" and dated on the title page in 1872, and the same is marked Complainants' Exhibit Cluett Article and Cut, O. S. I., N. P.

Same objection, with notice to strike out.

Q. 11. Where was the factory of the Cluett firm next located?

A. Federal street.

Q. 12. Can you produce a representation of the factory? And, if yea, please do so.

A. Yes, sir.

Mr. Skilton offers in evidence on behalf of the complainants the photograph referred to, and the same is marked Complainants' Exhibit Cluett Federal-Street Factory, O. S. I., N. P.

Q. 13. Where was this factory located?

A. On Federal street, opposite North Fourth, in the city of Troy.

Q. 14. What became of the Federal-street factory?

A. It was burned in March, 1880.

135 Q. 15. Where was the factory of the Cluett firm next located?

A. Fulton street, Sixth street, and Fourth street temporarily following the fire.

Q. 16. Where is it now located and when was it established there?

A. 441 River street to 447, covering four lots, in April, 1881. In 1883 an addition of another building 50 feet front and 100 feet deep was made to the factory, covering lots 449 and 451.

Q. 17. Can you give the year when the factory was moved from River street opposite the bridge to Federal street?

A. About 1874 or 1875.

Q. 18. How many years was the firm in the River-street factory opposite the bridge?

A. They were located there when I came into their employ.

Q. 19. Please state when the Cluett firm first began the manufacture of shirts, as near as you can, and where the factory was located at the time.

A. In the latter part of 1868, on River street, opposite the bridge.

Q. 20. About how many sewing-machines did the firm run at that time, in 1868 or 1869?

A. Ninety-nine.

Q. 21. How many on shirts and how many on other work?

A. About 31 or 32 on shirts and the balance on collars and cuffs.

Q. 22. How many sewing-machines were the concern running when they first went to Federal street?

A. 128, about.

Q. 23. How many of these on shirts and how many otherwise?

A. I guess about 44 or 46 on shirts and the balance on collars.

Q. 24. When the firm first organized the factory at 441 to 447 River street, in 1881, what number of machines did they run and how many of these on shirts?

136 A. About 128 on collars and about 81 or 82 on shirts.

Q. 25. How many sewing-machines are the firm now running?

A. About 128 on collars and about 260-odd on shirts.

Q. 26. Do you remember the time when the bound bosom was first gotten up?

A. I am under the impression it was in 1873. Yes; I remember the time.

Q. 27. Please state whether or not you had anything to do with experiments made for that purpose.

A. Yes, sir.

Q. 28. What was the nature of what you had to do?

A. Make binders to bind the bosom with and experiment also with the binder.

Q. 29. What experiments did you make with the binder for that purpose?

A. Several. I experimented a month or more.

Q. 30. At whose direction?

A. Mr. Robert Cluett's.

Q. 31. Where were these experiments made?

A. River street.

Q. 32. What were your duties as mechanic for the firm?

A. I had charge of the sewing-machines and experimenting; looking after the machinery in general.

Q. 33. Who has made the binders used by the Cluett firm in the manufacture of the bound-bosom shirt?

A. I have.

Q. 34. Who made those used in binding the shirt bosom in the beginning?

A. I did.

Q. 35. Will you please give the names of some of the operators among those who first made bound-bosom shirts in the factory of the Cluett firm?

137 A. Mat. Calkins, Libbie Nimmo and Frank Nimmo, Madge Martin, Eva Leonard.

Q. 36. Where are these persons now living?

A. Miss Calkins is dead; Libby Nimmo is married; she is living on Green Island; Frank Nimmo, West Troy; Madge Martin lives on Eagle and Ninth, in Troy; Eva Leonard lives in Ninth, north of Federal.

Recess from 12.20 o'clock p. m. to 1.30 p. m.

After Recess.

Same parties present.

Q. 37. Please state what part you performed or what you did in connection with the experiments upon bound bosoms. What was the first experiment you tried?

A. Straight binding.

Q. 38. What was the result of the experiment with straight binding?

A. I couldn't accomplish what I wanted to do.

Q. 39. Why not?

A. It wouldn't yield and conform to the curves.

Q. 40. Why wouldn't it yield and conform to the curves?

A. No give to the goods.

Same objection, with notice to strike out.

Q. 41. What did you do next, then?

A. Commenced to experiment with bias binding.

Q. 42. What was the result?

A. Made a success of it.

Q. 43. What kind of a bosom was it you experimented with—what shape?

A. It was a round or oval bosom at the bottom.

Q. 44. On what part of the bosom was this bias strip applied?

A. The edge.

Q. 45. What portion of the edge—what proportion of the edge—the whole of it or part?

A. All the way round from neck to neck.

Q. 46. Under whose direction did you make these experiments?

138 A. Mr. Robert Cluett's.

Q. 47. Are you able to fix the time when these experiments were made? If so, please do so.

A. About 1873.

Q. 48. In putting the binding upon the bosom and shirt does the

Cluett firm use an ordinary binder—that is, I mean binding instrument or instrument for folding the binding—or do they use a special binder made for the purpose?

A. Special binder made for the purpose.

Q. 49. Please state whether or not the ordinary binder would do this work.

A. It would not.

Q. 50. Why not?

A. Not room for the goods to pass through in a proper manner.

Q. 51. Who made the first binders that were used in binding shirt bosoms, if you know?

A. I did.

Q. 52. I have asked you to state the numbers of machines—sewing-machines—employed by the Cluett firm at various times. In stating the number of machines I wish to know whether you have stated the number of machines in active use or not.

A. They vary at times. Some of the time every machine is occupied, as at this time they are. In dull seasons they are not all occupied; in active seasons they are; and the same was true of the different periods I have mentioned. Before the firm commenced the shirt manufacture—just before—they used 66 machines exclusively on collars and cuffs.

Direct examination closed.

No cross-examination.

WILLIAM J. BLAKELEY.

Sworn to before me this 14th day of September, 1886.

O. S. INGRAM,
Notary Public, Troy, N. Y.

139 MARY JANE WAIT, a witness produced on the part of the complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence?

A. Mary Jane Wait; middle age; 138 Fourth street; my husband's name is Lewis H. Wait.

Q. 2. Were you ever in the employ of Geo. B. Cluett, Bro. & Co., of Troy, New York; and, if yea, in what building were you engaged, and, if you recall, in what year for the first were you so engaged?

A. Well, in River street, opposite the bridge. I am not sure whether it was in 1873 or 1874, for the first.

Q. 3. What was the nature of your duties in that employ?

A. Forewoman in the shirt department.

Q. 4. Please state what was the style of shirt being manufactured by Geo. B. Cluett, Bro. & Co. when you first entered their employ.

A. For special order they used what they called the Monarch shirt. I wouldn't be positive that the name was Monarch, but I think it was. The particular feature was that it was cut away here at the top to prevent its wrinkling.

Q. 5. What do you recall, if anything, about the patenting of this particular shirt, cut away at the top to prevent wrinkling—that is,

what do you recall as to who had the patent for it or about the patent for it?

A. I remember having the bosoms got out, or, in other words, made for the patent. I remember getting the bosom out at the time they used them for having them patented.

Q. 6. Who got out the patent for this particular shirt?

A. Mr. Myers.

Q. 7. What do you recall about the getting up of a second
140 style of shirt and making the same subsequent to making the Myers shirt by the Cluett firm?

A. It is that Mr. Robert Cluett got out a bound bosom to take the place of it.

Q. 8. In what respect did you understand that it took the place of it?

A. It made a heavy welt, causing the wrinkles to come on the outside of the binding. The bosom being stiff threw the wrinkle outside the binding on the shirt front—the soft part of the shirt—that is, next to the sleeve.

Q. 9. How long was the manufacture of the Myers style, containing the welt, continued after the manufacture of the bound bosom was entered upon?

A. I don't remember that it was used any. It might have been in a special order possibly.

Q. 10. How extensively was the bound bosom adopted by the firm?

A. It was used for orders and stock.

Q. 11. Please state what the facts are as to the development—that is, the increase or diminishment of the manufacture—after the adoption of the bound bosom by the Cluett firm?

A. The increase was so great that I would not like to say just how many they made a day, but they made from three to four dozen up to ten of special orders—that is, from three of the Myers to ten of the bound. Subsequently they manufactured them largely for stock, running up as high as a hundred dozen a day in 1879, I should think. I left the employ of the firm in 1879.

Q. 12. What can you say as to the increase in machinery—that is, sewing-machines—and also of operators during the same period—that is, prior to 1879?

A. A great deal of the stock-work was made outside, and small special orders and individual orders were made inside.

141 Q. 13. About how many operators do you think were employed by the firm when you entered their employ?

A. Of course that would be mere guess-work. I should think there were ten shirt-makers, including the trimming-makers, at first. By 1879 they must at least have had 75 operators on shirts—that is, trimmings and all. In addition to what was done in the work-room a great deal was done outside, but the binding of the bosoms was all done inside in my time.

Q. 14. What do you recall about Myers getting the patent and about preparing the shirt models therefor?

A. I supposed they were for Mr. Cluett and that he would have the patent.

Q. 15. At whose direction was the shirt model prepared of which you have just spoken?

A. By Mr. Myers.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 18. You were asked here in Q. 11 to state what the facts are as to the development of Cluett's business after the adoption of the bound bosom, and the inference is evidently as if the increased business was mostly, if not altogether, due to this bound bosom. Are you aware that the defendants in this suit, Tim & Company, started their factory in this city not very long ago in a very humble way, and now also have quite a large and successful business, altogether independent of any patents on shirts?

A. No, sir; I am not aware of anything of the kind. I am not interested in the shirt business.

X Q. 17. Are you aware that Tim & Company started in this shirt business in 1878, and at that time cut about a hundred dozen shirts a day, and that already in the fall of 1879 and during the
142 year 1880 they cut more than 350 dozen shirts a day?

Question objected to as immaterial and irrelevant.

A. I do not.

X Q. 18. Then do you mean to be understood that the increased business between 1873 and 1879 at Cluett's was entirely due to this bound bosom?

A. It is a very broad question. I know after the bound bosom was introduced the increase in business was very great. I shouldn't like to make any other answer.

Cross-examination closed.

MARY J. WAIT.

Sworn to before me this 14th day of September, 1886.

O. S. INGRAM,
Notary Public, Troy, N. Y.

Adjourned at 5.05 o'clock p. m. to Wednesday, September 15, 1886, at 10 o'clock a. m.

TROY, NEW YORK, *Sept.* 15, 1886.

Met pursuant to adjournment at 10 o'clock.

Present: Mr. Skilton and Mr. Raegener.

ROBERT CLUETT, a witness produced on the part of the plaintiffs, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Robert Cluett; age, forty-two; Troy, New York; shirt and collar manufacturer.

143 Q. 2. Are you one of the complainants and the patentee of the bound-bosom patent here in suit?

A. I am.

Q. 3. Please give the names of the individuals composing the firm of Geo. B. Cluett, Bro. & Company at the date of your assignment of the letters patent here in suit to the firm.

A. George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, the complainants herein.

Q. 4. Please state what class of shirts the firm of George B. Cluett, Bro. & Co. manufactures and has manufactured under this bound-bosom patent of 1874, here in suit, as compared with other classes or qualities of shirts.

A. From the very beginning we have aimed to make a shirt adapted to the wants of fine retail trade and to produce a fine stock shirt that would in a large measure take the place of a custom shirt.

Q. 5. Has your firm manufactured shirts prior to the commencement of this suit of the ordinary kind for general trade?

A. We have not attempted to produce as cheap shirts as are usually made by many other manufacturers, but have rather sought to make a class of goods that would occupy a higher plane and command much better prices.

Q. 6. What was the original business of the firm—that is, what line of goods did they originally manufacture?

A. Collars and cuffs.

Q. 7. Please state where and how the earlier stages of their shirt manufacture were entered upon in connection with the firm or by yourself.

A. I think it was in the year 1873 that a retail furnishing-goods store was opened by the firm at No. 248 River street under the firm name of Cluetts & Burrage. In connection with our furnishing-goods business we began the manufacture of custom shirts, employing a custom-shirt cutter, who had a cutting board in the back part
144 of the store, and who cut the shirts and gave them out to be made. Something like six months after this retail branch was established it was thought best for me to spend a large portion of my time at this store, and I did so, and soon after doing this I began to study the wants of our customers in connection with custom shirts. I took many of the measures myself, and in this manner naturally became familiar with the needs of our customers and with many important facts connected with custom shirts. At this time, the time referred to, the shirts usually found in stock were not as well adapted to the wants of the critical wearer as they have since been made, sufficient care not being taken in the shape of the body or in other particulars to produce a perfect-fitting garment. It was also a difficulty frequently noticed that the bosom would not fit properly near the top and had a tendency to wrinkle just below the collar. It occurred to me that this difficulty might be overcome by making a shirt the bosom of which should stop short at a point near the yoke and enter the neck band only, leaving a space between the yoke and the line forming the upper portion of the bosom,

which would admit of the play of the shoulders and arms without crushing the bosom. I made such a shirt for several of our customers, and, while it gave good satisfaction in many respects, it was found that the constant wear—the cloth being but one ply—between the top of the bosom and the yoke would cause it to wear out at that point sooner than any other. I also found that there was a tendency for shirts, the bosoms of which were made in the ordinary way, to wear out at a point near the edge of the bosom, and also on the bosom itself, so that it was not an unusual thing for the shirt itself to outwear two bosoms.

Q. 8. What further steps were you induced to take by the result of the tests made with the shirt described in the last answer; I mean what was the next step?

145 A. To prevent the breaking away in the body of the shirt at the top of the bosom already described, I extended the front of the bosom or outer ply up to the yoke, and where the bosom was inserted the back ply of the bosom was extended in like manner, the interlining being cut shorter and folded back at the point near the top of the bosom; this fold formed a welt which absorbed the starch, making a heavy ridge, the effect of which was to strengthen that portion of the bosom, and consequently render it much less liable to wrinkle when on the wearer.

Q. 9. Can you produce any representation of the shirt or shirt bosom made in the manner described in the last answer?

A. I can and do. It is shown in the U. S. letters patent No. 161,205, dated March 23, 1875, and granted to me, Robert Cluett, a copy of which I hold in my hand.

Mr. Skilton here gives notice that at the hearing of this cause he will refer to the letters patent mentioned in the last answer, as found in the monthly volumes issued under the statute by the Patent Office, and under this notice all the rights conferred by statute in that matter will be claimed; and the letters patent referred to are now offered as evidence herein, as contained in said monthly volumes, on behalf of complainants.

Mr. Skilton also offers in evidence Patent Office copies of the letters patent No. 161,205—specification and drawing—on behalf of complainants, and the same is marked Complainants' Exhibit Cluett Welt Patent, O. S. I., N. P. Certification of the same waived.

Defendants' counsel objects to the several answers of the

146 witness on this subject and to the letters patent last referred to as immaterial and irrelevant evidence.

Q. 10. Please state what further developments, if any, were made by you in connection with the idea developed in the letters patent last mentioned.

A. We had in our employ at this time—or subsequent to the date of the application for the letters patent last mentioned—a man by the name of J. H. Myers, who served in the capacity of cutter and also gave out the shirts to be made, who made application for and obtained letters patent No. 153,367, dated July 21, 1874. The features embodied in said Myers' patent were the same as further de-

veloped in the process of manufacture under my supervision. An interference was declared between my application and the Myers patent, priority being conceded to me by Mr. Myers for the inventions described therein.

Mr. Skilton offers in evidence on behalf of complainants the U. S. letters patent No. 153,367, granted to J. H. Myers July 21, 1874—specification and drawings—and the same is marked Complainants' Exhibit Myers' Patent, O. S. I., N. P. Certification waived.

Mr. Skilton also gives notice that he will use the last-mentioned specification and drawings in evidence at the hearing herein on behalf of complainants, reading from the monthly volume issued by the Commissioner of Patents under the statute.

Recess at 12 m. to 1.30 p. m.

Resumed at 3.45.
Parties present as before.

147 Q. 11. Dropping this branch of the subject for the present, I wish to turn your attention to the subject of binding and binding strips. Please state what you did in connection with getting up "Roman cord," so called.

A. At one time we used a trimming for the outer edge of collars and cuffs, this trimming being made in either white or fancy material. This trimming was prepared before being inserted into the edge of the collar or cuff by first cutting a piece of material three-quarters of an inch wide, more or less, folding the same, and inserting into the fold the cord, said cord being held in place by a row of stitching. The edges of this corded strip were raw. This trimming was placed between the upper and lower plies of the collar or cuff when run so that all the raw edges were together, and when the collar or cuff was turned it brought the corded edge of the strip on the outer edge of the collar or cuff. We called this a Jeddo edge. It occurred to me that this trimming might also be used on the outer ply of the collar or cuff, but the difficulty presented was the raw edges of the strip. I then conceived the idea of pocketing these raw edges by binding the same with a strip of material similar to that already described to be cut either straight or bias. After some experiments I produced the trimming as described and gave it the name of "Roman cord." We applied this finished trimming to both collars and cuffs by stitching the same on the outer edge of the binding. The result not only gave the collar or cuff an attractive appearance, but formed a heavy welt, which naturally absorbed the starch, materially strengthening the collar or cuff, rendering either more likely to retain its shape. This trimming was made in various colors as well as all white and improved the appearance of the goods to such an extent as to add largely to their sale. In fact the trimming made so good an impression that I thought it might be put to other uses, such as trimming aprons, dresses, &c., and I seri-
148 ously entertained the thought of securing a patent for this Roman cord as a separate article of manufacture and sale.

Mr. Skilton offers in evidence, on behalf of complainants, a piece

of the corded material denominated Jeddo edge in the answer and the same is marked Complainants' Exhibit Jeddo Edge, O. S. I., N. P.; also a piece of the Roman cord, which is marked Complainants' Exhibit Roman Cord, O. S. I., N. P.

Answer objected to as immaterial and irrelevant.

Mr. Skilton also offers in evidence, on behalf of complainants, two binders, and they are marked respectively Complainants' Exhibit Jeddo Edge Binder, O. S. I., N. P., and Complainants' Exhibit Roman Cord Binder, O. S. I., N. P.

Q. 12. Please state what the last two exhibits are, if you know.

A. The smaller of these was used in making the Jeddo edge, and the larger one for attaching the binding to the piece described as Jeddo edge, and thus forming at one operation what I have described as the Roman cord.

Q. 13. Please describe any subsequent improvements made by you in the same line of invention, if any.

Objected to as immaterial and irrelevant.

A. In the spring or early summer of 1874, after numerous experiments, I produced a shirt, the bosom of which was attached by a folded binding on the outer edges, the object of this improvement being to obtain a uniform seam or finish entirely around the bosom from yoke to yoke. By this means the appearance of the bosom was greatly improved, both in its outline and by the
149 doing away of wrinkles or creases which were very common in bosoms made in the old manner. The binding also produced a heavy welt on the outer edge of the bosom which added strength to the bosom and prevented its wrinkling by the motions of the arms or body. This binding, pocketing or covering the various raw edges of the bosom and the shirt where attached to the bosom, prevented the fraying out of loose threads and the consequent disfigurement of the outer surface of the bosom. Not only was the appearance of the shirt greatly enhanced, but durability of the garment was also materially increased. The binding, forming a heavy welt or ridge, prevented the cutting of the body of the shirt near sides of the bosom, a common occurrence in the old style of shirt. In the old style of shirt the thin edges of the bosom tended to cut the body of the shirt at sides of bosom by the constant friction of these parts occasioned by the motion of the body. I found that the bound-bosom shirt could be produced with greater facility than where the bosom was made in the old manner. Under the old plan the outer edges of the bosom of the upper and under ply were folded up to the interlining or middle ply, or to a line nearly corresponding to the same. A line of stitching was then put through these plies and the bosom was then ready for insertion into the shirt. The folding and stitching above alluded to extended down the sides of the bosom only. The bottom of the bosom was cut straight or square, and the raw edges of the same were covered by a folded piece of linen or other material, this folded piece being so stitched to the bottom of the bosom that it covered the raw edges of the

bosom at that point, also those of the shirt and the tab, which was placed under the lower part of this strap or folded piece of material already described. It was not an unusual thing for this strap to wear out and expose the upper portion of the tab which it was intended to cover. It was also a common thing for
150 this strap to break away from the bosom or from the tab, as the strap was only secured to these parts by a single line of stitching and consisted of but one ply of material. The preparation of these various parts which I have described and attaching the same to the shirt was rather a difficult and slow process. The binding of the bosom dispensing with the strap and embracing the edges of the shirt and of the tab when completed was found to be not only a saving of time but also of material. In the bound-bosom shirt the folding in of the outer edges of the bosom was dispensed with, and this accomplished two important results: First, the outer edges of the bosom, being uniform and being bound in this condition, rendered the fulling up of any one of the plies or wrinkling of the same much less likely while the bosom was being made; second, less material was required in cutting the three plies, as there was no folding in of the outer edges required. Where the bosom was inserted into the shirt under the old method already described the body of the shirt or that portion which had been cut out to correspond with the shape of the bosom was inserted into the sides of the bosom between the folded parts already mentioned and secured by a single line of stitching. The fact that the sides of the bosom were attached to the shirt by a single line of stitching rendered that portion of the shirt somewhat insecure, as the shirt frequently broke away from the stitching above alluded to.

Recess until 7 o'clock p. m.

Re-assembled after recess.
Same parties present.

Q. 14. Please describe the different shapes of bosom to which you applied the folded binding.

A. We have applied the folded binding to bosoms rounding
151 on the bottom, to those sloping toward the bottom, commonly styled coffin-shape, and to square bosoms.

Q. 15. How was the binding managed or on what principle is it made or was it made to fit bosoms on the bottom, of these three different shapes?

A. For the round bosom the bias binding was preferred, as there was sufficient elasticity to it to make it conform to the shape of the bosom. On other shapes of bosom a straight binding could be used and was used, though it was somewhat more difficult, of course, to turn those square corners than to apply the binding to the round bosom. I may mention in this connection that in all three shapes described a continuous binding strip was used, so that, whether the bosom was round, sloping, or square at the bottom, the strap which I have previously described was dispensed with at the bottom of the bosom. The round bosom was found to be the most desirable, as

its outlines were unlike those of any other bosom previously shown. It was therefore novel in design and less liable to break or wrinkle at the bottom of the bosom than the square or sloping, as it escaped contact with the suspenders and was without any sharp corners.

Q. 16. What did you find to be the effect or the result of the use of the binding as shown in the patent here in suit at the top of the bosom on each side where the welt was used in the patent granted to you and also in the patent granted to Myers previously spoken of?

A. It was found that in the bound-bosom shirt the binding forming a heavy welt prevented the wrinkling or crushing of the bosom at a point near where it joins the yoke, thus fully accomplishing the purposes of the Myers method and being much more sightly, in that it dispensed with the line of stitching and the heavy welt, both of which were visible when a low-cut vest was worn. The bound bosom was more sightly at the upper part of the bosom and was also
152 less troublesome to produce, as it did not have to pass through so many hands in the process of manufacture. Another important feature of the bound-bosom shirt I may mention. It was found to be much less liable to damage in the process of laundering. The hot iron in passing over the shirt near the edges of the bosom would not cut or injure the body of the shirt, as the thick welt or surface produced by the bound edges of the bosom did not allow the sharp edges of the iron to destroy the body of the shirt at this point. It sometimes occurs in the process of laundering that an iron is overheated, sufficient care not being taken by the ironer to see that the iron is in proper condition for use; in such cases the edge of the bosom might become singed, which would necessitate, in the old method of making the bosom, the putting in of a new bosom, while with the bound-bosom shirt such an injury could very easily be remedied by simply binding the bosom anew. Thus the expense of a new bosom would be avoided. It was also found in the bound-bosom shirt that the body of the shirt would give longer service, and while we adopted the reinforced piece at the sides of the bosom we did not add this piece because we found it was really needed, but because such shirts were already being offered on the market—I mean reinforced at the sides—and our salesmen asked that such an addition be made to our shirts because they found others were doing it. In making this addition to the front of the shirt we found no difficulty whatever in including the edges next to the bosom in the binding together with those of the shirt body and bosom. I also found that by the use of the binding the body of the shirt, reinforce pieces, and the bosom could be joined together by the operator in one operation, which was a saving of time and of labor.

Q. 17. What was your experience with operators, who were already familiar with ordinary processes of binding ordinary
153 articles, as to their capacity or ability to at once go on to the work of binding bosoms?

A. An experienced binder on other work might without very much difficulty be able to bind bosoms which were intended to be laid over the shirt and not inserted into the shirt, but it would

take such an operator a long while to successfully bind the bosom and shirt together, as it was a difficult process—so difficult, in fact, that many operators would become discouraged before they acquired the knack, if I may so describe it.

Q. 18. Please describe briefly the method of operation adopted where the bosom was inserted and all the edges of the bosom and shirt were pocketed at one time or movement or operation, and state what was the nature of the difficulties experienced in practical shop work.

A. After the bosom has been made preparatory for insertion and the reinforce pieces attached to the body of the shirt the edges of the body and reinforce pieces intended to be joined to the bosom are placed by the operator on a line with the upper edges or corner of the bosom, and there held in readiness for the binding. The binding, passing through a folder attached to the sewing-machine, is folded by this attachment, through which it passes, and is then ready for the machine to start up; the running of the machine not only attaches all the parts together, binding included, but causes the binding to be drawn through the binder and to conform to the shape of the edges of the bosom; thus all the parts are attached in very short order at one operation. One serious difficulty in binding bosoms was found in getting the bosom in the exact center of the opening in the shirt body which had been prepared for it, and it was this difficulty that required much attention and time on the part of an inexperienced bosom binder or operator to overcome. Much difficulty was also experienced by those unaccustomed to this work in keeping the binding in its proper place, so that no
154 portion of the binding would be found on which the stitching had failed to catch.

Defendants' counsel objects to this answer and line of examination on the ground that complainants' machinery and binders and reinforcers are not proper subjects of this examination, and no issue has been made concerning it.

Q. 19. Please mention some of the reasons why binders of ordinary skill found it difficult or impossible to bind and insert shirt bosoms.

A. In the ordinary binding work, such as collars and cuffs, the parts intended to be bound generally lie together flat, and the binding can, therefore, be attached without much difficulty; and such goods as I have described generally consist of a less number of plies than comprise those embraced in the binding of the bound-bosom shirt. The shape of the bosom and the cut-out portion of the shirt which is attached to the bosom are, of course, much more difficult to attach the binding to.

Adjourned at 8.20 to Thursday, September 16, 1886, at 9.30 o'clock a. m.

TROY, N. Y., *September* 16, 1886.

Met, pursuant to adjournment, at 9.30 a. m.
Present: Same parties.

Q. 20. I understand that you desire to make some explanation or further statement in reference to the time when the store was first opened at No. 248 River street, and you are now at liberty to do so.

155 A. I stated yesterday that I thought the store referred to was opened in 1873. From facts which have since occurred to me I now believe that this store was opened in 1872.

Q. 21. You have mentioned the getting up of what you call a "Roman cord," in which the raw edges of the corded material or cording were pocketed or enclosed by a folded binding. Will you please give the date, as near as you can, when or prior to which this Roman cord was invented?

A. I cannot definitely name the date, but feel sure that it was during or prior to the year 1870. In March, 1880, our factory, which was then located on Federal street, was destroyed by fire, and many of the records of our business were then burned up. Owing to the destruction of these records, I am unable to give dates with the accuracy that I otherwise might.

Direct examination closed.
No cross-examination.

ROBERT CLUETT.

Sworn to before me this 16th day of September, 1886.

O. S. INGRAM,
Notary Public, Troy, N. Y.

WILLIAM J. BLAKELEY, a witness recalled on the part of the plaintiffs:

Q. 1. You are the party of the same name who previously testified in this case, are you not?

A. Yes, sir.

Q. 2. Do you remember Mr. Robert Cluett getting up what he called a Roman cord?

A. Yes, sir.

156 Q. 3. Do you remember the style of binders or folding instruments he used in making the Roman cord?

A. Yes, sir.

Q. 4. Please examine the two Complainants' Exhibits Jeddo Edge Binder and Roman Cord Binder and state if you recognize the same.

A. Yes, sir; I do.

Q. 5. Please state how you recognize them and why.

A. They are the manufacture of my own hands. One of them has, I believe, my name stamped thereon.

Q. 6. How old are these two binder exhibits?

A. As far back as between 1868 and 1869.

Q. 7. Where have these binders been since 1868 or 1869?

A. In my kit of tools.

Q. 8. How did they come there?

A. I placed them there.

Q. 9. Were they in the factory at the time of the fire; and, if yea, how were they preserved?

A. They were placed in a small paper box, and in moving my tools out on the day of the fire that box set alongside the kit of tools, and I myself removed them from the building while it was on fire. I have had them in my possession ever since.

Q. 10. Will you please explain how these two binders were used and intended to be used in the manufacture of the Roman cord?

A. The binder portion was fastened with thumb-screw to hold the gauge on the sewing-machine plate. The cording binder was attached to the plate screw. There was three plate screws to the plate, and the cording binder was attached by one of the plate screws. In the first place, we placed binder to draw the white binding through—I mean the folded strip; next the cording binder was placed in position to run the corded strip within the binding strip.

157 The sewing-machine being started with the two strips properly secured in each binder, the feeding devices would carry the two strips through the sewing-machine, a single line of stitching securing the two parts together, this line of stitching being within the cord and near the two edges of the folded binding strip.

Q. 11. Please examine Complainants' Exhibit Roman Cord and state whether that is a sample of the Roman cord to which you refer and like that made by the aid of the two binders just described.

A. Yes, sir.

Q. 12. By whom or at whose direction was Complainants' Exhibit Roman Cord made?

A. By my direction one of the operators at the factory made it.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 13. How do you fix the time when these binders were made?

A. By certain things that occurred. We placed the machinery in the building at about that time—sewing-machine tables. There were also certain changes made about the building, alterations, tearing down partitions and changing them.

X Q. 14. You have made a great many alterations and changes in your buildings, have you not?

A. Not in this particular one—that is, the River-street building—but in other buildings we have.

X Q. 15. It is also not an unusual thing for you to get up improved machinery, is it?

A. No; that is part of my business.

X Q. 16. Neither is it an unusual thing for your factory to get new and an increased stock of machinery, is it?

A. At that particular time it was, but now we are continually adding to our stock.

X Q. 17. When did you first recall this date—1868 or 1869?

158 A. Some time ago. About a month or two ago in connection with a talk about this suit.

X Q. 18. How came you to recall the dates at that time?

A. As I said before, in regard to those certain changes.

X Q. 19. What year were those changes made?

A. In the latter part of 1868 or 1869.

X Q. 20. Can't you get any nearer than that?

A. No.

X Q. 21. When next did you make any changes in these buildings?

A. Shortly after that; in 1869, I think. We added on additional buildings.

X Q. 22. When did you make changes or alterations?

A. We stopped about that time.

X Q. 23. When did you leave this building?

A. The latter part of 1874 or 1875.

X Q. 24. And didn't you make any changes or alterations between 1869 and 1875?

A. None that I remember.

X Q. 25. What necessary relation is there between the alterations in the building in River street and the production of these binders?

A. I was experimenting on those at that time?

X Q. 26. How can you now recollect that you were experimenting at that time?

A. My memory runs back to that.

X Q. 27. Then if it wasn't for these circumstances, the alterations of the building and the supply of the machine tables, you wouldn't be certain that it was in 1868 or 1869 that you made these binders?

A. It refreshes my memory about that time.

X Q. 28. How do you know that these changes took place at that time?

A. I am positive they did.

X Q. 29. Are you a married man?

A. Yes, sir.

X Q. 30. Family?

159 A. Yes, sir.

X Q. 31. How many?

A. One living.

X Q. 32. Any more?

A. No, sir.

X Q. 33. When were you married?

A. 16th of May, 1862.

X Q. 34. Where were you living at this time, 1868 or 1869?

A. West Troy, 129 Broadway.

X Q. 35. How long did you live there?

A. Thirteen years.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 36. About how long before the commencement of the shirt manufacture by the Cluett Brothers was it that the Roman Cord and the binders for making the same were gotten up—how many years before the shirt business?

A. About two or three years, I should judge.

WILLIAM J. BLAKELEY.

Sworn to before me this 16th day of September, 1886.

O. S. INGRAM,
Notary Public, Troy, N. Y.

Adjourned to 1.30 o'clock p. m.

Re-assembled after recess.
Adjourned subject to notice.

160 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York. In Equity.

GEORGE B. CLUETT *et al.*
against
HORACE B. CLAFLIN *et al.*

Please take notice that we shall proceed to take proofs in rebuttal for final hearings on the part of the complainants in the above-entitled suit, under the 67th rule in equity, before Archer McLearn, notary public, at his office, No. 400 Chestnut street, Philadelphia, Pennsylvania, on Wednesday, the 22d day of September, 1886, at 11 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day at such time and place and without further notice.

Dated New York, September 18th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

September 18th, 1886.—Due and timely service accepted.

DAVID TIM &
LOUIS C. RAEGENER,
For Defendants.

161 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice, before Archer McLearn, notary public, at his office, No. 400 Chestnut street, Philadelphia, Pennsylvania, on Wednesday, the 22d day of September, 1886, at 11 o'clock in the forenoon.

Present: James A. Skilton, Esq., of counsel for complainants; Louis C. Raegener, Esq., of counsel for defendants.

RUTH FRENCH BATTIN, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Ruth French Battin; middle age; 35 South High, West Chester, Pennsylvania; former occupation, forelady of Walter & Hutton; maiden name, Ruth (A.) French.

162 Q. 2. How long were you forelady for Walter & Hutton, where did they do business, and what was their business?

A. From some time in 1872 to 1877 I was with Walter & Hutton; during '70 and '71 I was with other shirt manufacturers. I began work on shirts as far back as '66. They were shirt manufacturers at No. 227 Chestnut street, Philadelphia.

Q. 3. During what period were you forelady with Walter & Hutton?

A. All of that time—from '72 to '77.

Q. 4. I place in your hands a shirt marked Defendants' Exhibit A, Com'r J. A. S., Ex'r, and particularly call your attention to the separate strip of material secured to the bosom and also to the shirt body. Please examine this shirt carefully and state whether Walter & Hutton during the time when you were in their employ made a shirt with a strip of material on the edge of the bosom of the same as in the exhibit or not.

A. No, sir; I never saw anything like it.

Q. 5. Did you ever see or know of a shirt made like Exhibit A in the respects spoken of in the last question elsewhere prior to your going to Walter & Hutton and between 1865 or '6 and 1872?

A. No, sir.

Q. 6. While you were in their employ did Walter & Hutton either make or sell a shirt in which the bosom was bound on the edge with a separate strip of material covering the edge of a bosom?

A. Not a white shirt.

Q. 7. I mean any form of laundered shirt.

A. No, sir.

Q. 8. Will you give the names of any other concerns with whom you worked?

A. I worked for L. & S. Sternberger before going to Walter & Hutton; Grant, formerly on Chestnut street also; also Marks & Weil, some time out of business.

Direct examination closed.

163 Cross-examination by Mr. RAEGENER:

X Q. 9. Will you please describe the shirts made and sold while you were at Walter & Hutton's in which the bosom was bound on the edge with a separate strip of material, having reference to your sixth answer herein?

A. We made flannel shirts—shield bosoms and straight bosoms—bound with braid all around the bosom, and sometimes bias pieces, plain goods, sateen.

X Q. 10. Of how many layers did these flannel bosoms consist?

A. Two.

X Q. 11. Was the bias strip of material, such as sateen, used as a binding—folded?

A. It was run through the binder on a Davis machine, which folds it.

X Q. 12. Were the raw edges of the binding turned in?

A. Yes, sir.

X Q. 13. And this bias strip of material with the raw edges turned in pocketed the raw edges of the two layers of the bosom?

A. Yes, sir.

X Q. 14. And when was it you made such shirts—during what year?

A. '72 and '77.

X Q. 15. You mean from '72 to '77 continuously?

A. Yes, sir.

X Q. 16. In quantities?

A. Yes, sir.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 17. Of what colors were the bindings referred to in your answer to cross-questions when speaking of flannel shirts?

164 A. We used the bright skirt braids, bright colors. The sateens were generally buff.

R. D. Q. 18. Were they the same color as the goods or different colors?

A. Oh, no; different colors.

R. D. Q. 19. What was the purpose of the binding?

A. Just ornamental—to make it sell, I guess.

R. D. Q. 20. Do you know of any other objects?

A. No, sir.

R. D. Q. 21. How were these flannel shirts opened?

A. They were fastened down on the left side and about two inches up on the right and from there up open.

R. D. Q. 22. How were they secured on the side where open?

A. Buttons and button-holes.

RUTH F. BATTIN.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

JAMES B. HERVEY, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. James B. Hervey; I am between 67 and 68; residence, Bridgeport, Pennsylvania; business, laundryman.

Q. 2. Did you ever do work as a laundryman for New York shirt manufacturers, and among them for V. Henry Rothschild or V. Henry Rothschild & Company?

165 A. I did. I did work for V. Henry Rothschild and afterwards for V. Henry Rothschild, Brother & Gutmann. I did laundry work also for other New York shirt manufacturers.

Q. 3. For how many years were you doing work for New York shirt manufacturers?

A. I did work from 1845 to 1873 or '4.

Q. 4. Where was your laundry located?

A. First in Sixth street, near Avenue C; then at Belleville, New Jersey.

Q. 5. Are you the Captain Hervey who introduced Chinese labor in your Belleville laundry early in the history of the Chinese labor question?

A. I am. I think it was in 1868. It was about the time Mr. Sampson introduced Chinese labor in his North Adams shoe factory.

Q. 6. Prior to 1873 or 1874 did you ever launder in your establishment either white or colored starched shirts or bosom shirts in which the edge of the bosom was covered with a binding for V. Henry Rothschild or for any firm of which he was a member?

A. Not to my knowledge.

Q. 7. If bound bosoms had been sent to your laundry to be laundried you would have known it, would you not?

A. I think I would; yes, sir.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

— Q. 8. When did you first commence laundering shirts for New York houses?

A. In 1845.

X Q. 9. When did you commence laundering shirts, white or colored, or shirt fronts with bound bosoms?

A. Well, I don't really know what the term bound bosom
166 means. I know now what a bound bosom is, but I didn't know what a bound bosom was at that time. That's what I mean.

X Q. 10. (Question repeated.)

A. I don't remember laundering shirts other than those that were in common use at that time. I remember laundering shield bosoms, same as in use now. I don't remember ever doing it.

X Q. 11. Have you not up to the present day laundered shirts in which the raw edges of the bosom were covered or enclosed by a separate strip of material?

A. No, sir.

X Q. 12. Have you ever seen such shirts?

A. Yes, sir; I saw one shirt.

X Q. 13. When was that?

A. One of my customers showed one to me about two weeks ago.

X Q. 14. In connection with this suit?

A. Not that I know of. I don't know that he is. I never knew that there was a suit until this morning.

X Q. 15. Then between 1845 and the present day, with that one exception testified to, you have neither laundered, seen, nor heard of a bound bosom?

A. No; I never have—that is, I mean technically what is called a bound bosom.

X Q. 16. Please describe the other kinds of bosom to which your last answer refers, but which are not technically bound bosoms.

A. Well, the ordinary shield shirt—the pleated shirt. You ought to have a shirt-maker to tell you how they are put in.

X Q. 17. Have you ever laundered shirts in which a colored strip of material was along the edge of the bosom—on the outer edge?

A. No, sir.

X Q. 18. How were the shield-shaped bosoms attached to the body?

A. Stitched generally with two rows of stitching around the
167 outer edge, something like what I have got on; there is no band there. The outer edge of this shirt bosom is turned in and under, and a line of stitches connects this bosom with the body. This is a laid-on bosom, not a cut-out shirt body with the bosom inserted; it is the method adopted in cheap shirts.

Cross-examination closed.

JAMES B. HERVEY.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,
[SEAL.] *Notary Public.*

MARIA BURNS, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Maria Burns; 35 years of age; residence, 1010 Dorrance street; shirt operator.

Q. 2. How long have you been a shirt operator?

A. I am a shirt operator since the Centennial year, 1876.

Q. 3. What was your business before '76?

A. I was what is called a week hand with M. Rosenbach & Co., shirt manufacturers, of Philadelphia, on Third and Church.

Q. 4. How long were you with Rosenbach & Co. as a week hand?

A. Six years a week hand prior to '76, to the best of my knowledge.

Q. 5. Prior to that what was your work and where were you working?

A. I finished for them three or four years prior to that.

168 Q. 6. While you were engaged as a week hand what sort of work did you do?

A. I basted. I basted cuffs and collars; put buttons on; trimmed off the edges of the bosom and creased them down, so that the operators could run the bosoms into the shirts.

Q. 7. How were these edges of the bosoms turned in?

A. They were creased down with the fingers.

Q. 8. How long were you engaged in this work of creasing the edges of the bosom and turning them in?

A. It was, as I said, five or six years prior to the Centennial year.

Q. 9. During this period of five or six years prior to the Centennial year were there any shirts made at Rosenbach & Co.'s in which the edge of the bosom had a strip of separate material turned over the edge of the bosom like a binding, as in Defendants' Exhibit A, which I now place in your hands?

A. I never saw it.

Q. 10. These bosoms that you creased down and turned in were otherwise completed bosoms, were they not?

A. Yes.

Direct examination closed.

No cross-examination.

her
MARIA x BURNS.
mark.

Sworn to before me this 22d day of September, 1886.

ARTHUR McLEARN,
[SEAL.] *Notary Public.*

Recess at 12.45 p. m. to 2 o'clock p. m.

169 EDWARD H. WRAY, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Edward H. Wray; age, 47; 1830 Camack street, Philadelphia; in the butter, eggs, and cheese business.

Q. 2. Were you engaged in the manufacture of shirt fronts in the city of Philadelphia between the years 1865 and 1875 or 1876?

A. I was in the business from the early part of the year 1868 until the last of the year 1876.

Q. 3. Please state what was the exact nature of your business during that time.

A. With the exception of the first year, I was manufacturing shirt fronts entirely, and during the first year it was part of my business.

Q. 4. Are you familiar with the styles of bosoms and method of manufacture or plan of manufacture of shirt bosoms in the city of Philadelphia from the beginning of 1869 to the close of 1876?

A. Yes; I am.

Q. 5. These shirt fronts or shirt bosoms made by you were sold to others to be made up with the shirt, I suppose?

A. Yes.

Q. 6. Can you give the names of any other establishments whose business was similar to your own in Philadelphia during the same period?

A. There was a man by the name of Stuckey, and another by the name of Land; Land is still in business in the firm of Land & Thomas; Land was formerly with Stuckey; another by the name of Rosenbach. These are all I was personally acquainted with that I now recall.

Q. 7. Please examine the bosom of Defendants' Exhibit A, with a separate strip of material secured to the edge thereof, and state whether or not you ever saw or knew of the manufacture or
170 yourself made such a bosom provided with such a strip, folded or otherwise, during the period between the commencement of 1869 and the last of 1876, in the city of Philadelphia.

A. I never saw one till I saw this exhibit. I never heard of one before until I was told that there was such a thing on Monday last, and, of course, I never manufactured any.

Q. 8. What were your opportunities as to knowing whether a bosom of this kind was being manufactured in the city of Philadelphia during the years last mentioned?

A. I was always watching out for anything new in the shirt bosom line, and if I had heard of anything new I most certainly would have seen it.

Q. 9. Please describe the style of bosoms or shirt fronts that were made by you in the period named—from '69 to '76, inclusive.

A. I can't give you dates, but my first experience was in open-front pleated bosoms, folded by hand on a slat. Afterwards there were closed-front pleated bosoms, with quite a number of pleats on either side of the centre, which pleats diminished by degrees in number until the bosom which is now in use came in fashion, commonly called the shield.

Q. 10. How were the edges of the shield front on the bosoms made by you left when your work on them was completed?

A. Raw; raw edge—that is, at first they were left square and the outline of the shield marked with a pencil and later on the outline stitched and cut in the shape of a shield, but always with a raw edge.

Q. 11. How were these raw edges of the bosom intended to be

managed in connecting the bosom and the shirt together in the bosoms made by you and others in the trade at that time?

A. The edges were turned in, the body of the shirt inserted between the layers of the bosom, and stitched close to the edge of the bosom. I never made a shirt with a laid-on bosom, nor do
171 I know how shirt fronts were laid on. I have seen thousands of shirts with the bosom laid on, but I mean I never saw the operation of putting it on, but as an experienced shirt-maker I know how it was done. The raw edges were turned in and stitched on the front of the shirt close to the edge of the bosom. The words "nor do I know how shirt fronts were laid on" were unintentional, and I desire to have them stricken from the answer.

Q. 12. In the bosoms or shirt fronts that were made by you and as in shape to be sold to your customers in what other way were the edges left except raw and with the different plies of the bosom open and not stitched together, as you have previously described?

A. In no other way; only the raw edge.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

— Q. 13. In what business are you now?

A. I am in the produce business—butter, eggs, and cheese.

X Q. 14. Since when are you out of the shirt business?

A. About three years ago.

EDWARD H. WRAY.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

WILLIAM ENYARD, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

172 A. William Enyard; age, 47 last June; 958 North Second street, Philadelphia; occupation, shirt manufacturer.

Q. 2. With what house were you connected prior to 1879; in what business and for what term of years?

A. A. Oppenheimer, Son & Co., shirt manufacturers, in the city of Philadelphia, for a period of 22 years.

Q. 3. What were your duties between 1865 and 1876, the Centennial year, in connection with that house?

A. I was salesman; tended to packing and shipping, and I gave out work and took in work, both, the last during the last three years of that period.

Q. 4. During that period, from 1865 to 1876, what were the principal shirt-manufacturing concerns of Philadelphia?

A. Rosenbach & Co.—he was the principal shirt manufacturer of this city, on Third street above Market, on the west side; Sternberger & Brother; Chester Smith.

Q. 5. Please examine Defendants' Exhibit A, which I now place

in your hands, and state whether or not, prior to the year 1875, you ever saw a shirt—either manufactured by your firm, by the firm of Rosenbach & Co., Sternberger & Brother, or any other shirt-house in Philadelphia—in which the bosom had on its edge a separate strip of material folded over the edge of the bosom in the form of a binding.

A. No, sir; never saw one set on that way with a strip on the edge.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 6. Did you ever see any with a band?

A. No, sir.

173 X Q. 7. I have reference to colored as well as white.

A. I never saw colored or white shirts with a band on the outside edge.

X Q. 8. If not on the outside edge where did you see it?

A. I have seen it made on the edge of the box pleat, and some with fancy-cord edge on the box pleat.

X Q. 9. When was this?

A. The bound edge came out first and then the corded edge on the box pleat. As near as I can tell, it was somewhere along 1871 or 1872.

X Q. 10. Was the box pleat made up of several layers of material?

A. Two.

X Q. 11. Please describe how the bound edge was put on the box pleat.

A. It was stitched on after the bosom was made—fancy binding. The raw edge of the binding was turned under; turned in on itself. Both raw edges of the binding were turned in, and the folded binding included within itself the edge of the box pleat.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 12. What was the material of the binding you have last mentioned?

A. Percale, figured stuff; different styles of figured goods.

R. D. Q. 13. What was the object of putting that material on the edge of the box pleat?

A. To make up something fancy; to get up different styles.

R. D. Q. 14. Was it for ornamental or for practical purposes?

A. Just for ornamental purposes. These styles didn't last very long.

174 R. D. Q. 15. By what concern was this style of shirt made?

A. They were made by different houses, and one copied from the other. It was not our original style; we didn't start out first.

WILLIAM ENYARD.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

FRANCIS M. KENNEDY, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Francis M. Kennedy; age, 34; 2512 North Eighth, Philadelphia; shirt-cutter.

Q. 2. When did you first commence to learn the shirt-cutters' trade?

A. Some time in the year 1873; to the best of my recollection, early in the year.

Q. 3. When did you first go to work in a shirt-house, and where?

A. I went first to a man named John Miller, I think, in 1870. From there I went to a firm named Miller & Brother, in Third above Market; 53 North Third, I think, was Miller's number. Then, I believe, from there I came to Walter and Hutton. I went to learn cutting with E. Breubaker. He was 42 South Fourth.

Q. 4. Please examine Defendants' Exhibit A and state whether, between the time you first went into the employ of a shirt-house and 1876, the Centennial year, you ever saw or knew of the manufacture or sale of a shirt made like Defendants' Exhibit A, which I now place in your hands, in the respect of having on the
175 edge of the bosom a strip of material, which in the completed shirt is folded over the edge of the bosom and secured to the shirt front; this in the city of Philadelphia.

A. I never did.

Q. 5. How were shirt bosoms cut and prepared for the shirt operator to put into or onto the shirt in the establishment where you worked in 1873 and 1874 in Philadelphia?

A. Principally pleated bosoms at first; eventually we got down to shield bosoms.

Q. 6. In what shape were they as to their edges when ready for the shirt operator to insert in or place upon the shirt body at that time?

A. Well, all that I ever seen at that — or cut the edges were raw. The bosom was cut half an inch wider on each side than the opening in the shirt to receive it than the finished bosom.

Q. 7. What was to be done with the surplus half inch on each side of the bosom?

A. The surplus half inch on each side of the bosom was allowed for seams to set the bosom in. The set-on bosom was put on as follows: The edge of the bosom around the sides was turned in, you might say, about a quarter of an inch, and then run around with two rows of stitching; consequently the lining of the bosom, being heavier, would be trimmed somewhat narrower by the operator before she sets the bosom on, and which would be caught by the second row of stitching; that was the reason for putting two rows of stitching on. The first seam held the outer ply of the fine linen to the body of the shirt. It was turned over like Exhibit A, only it

didn't make a welt like this. It had no extra piece or binding like Exhibit A. Same thing applies to set-on bosoms.

Q. 8. How were these bosoms and the shirt managed at the bottom part in inserting or setting on?

A. Cut square at the bottom, and the bosom was secured on both sides first; the bottom of the bosom was joined to the
176 body afterwards. There was generally a pleat on the bottom. Sometimes they made them plain. If they were to be made plain the bosom would have to be wider. The bosom was cut a half inch longer than the space. For instance, if the front of the shirt was cut out sixteen inches the bosom would be sixteen and a half. That was the allowance to join at the bottom. The bottom was then covered with a small piece of linen having the tab inserted underneath this small piece of linen, which is known as a bosom band, and also run with two rows of stitching. That is put on after and separate after the bosom is finished; that is the last piece that goes on the bosom.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 9. How long did you have to do with the cutting business?

A. Thirteen years from '73 on.

X Q. 10. Did you ever cut fancy-colored shirts?

A. I have.

X Q. 11. And shirts with percale binding on the box pleat.

A. No, sir. I have seen those shirts you speak of.

X Q. 12. When?

A. It might have been six or seven years ago; might have been ten. I saw them in the shop windows. I don't know that any were cut in the establishment where I was or made in that manner.

FRANCIS M. KENNEDY.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

177 Mr. Skilton offers in evidence on behalf of complainants a certified copy of the naturalization papers of Jacob Loeber, of Philadelphia, and the same is marked Complainants' Exhibit Loeber's Naturalization Papers, A. McL., N. P.

Objected to on the ground that there is no evidence connecting this certificate with the Loeber who has heretofore testified herein, and that it is not the best evidence to show that Loeber did arrive here in '71 instead of '72, and objected to on the ground that it is incompetent.

JOHN A. KOLTES, a witness produced on behalf of the complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. John A. Koltes; age, 29 years last March; residence, 103 North Fifth street, Philadelphia; occupation, saloon-keeper.

Q. 2. Were you formerly a partner of Jacob Loeber?
A. Yes, sir.
Q. 3. What was your business?
A. Cigar business.
Q. 4. What is Jacob Loeber's business?
A. Shirt-cutter.
Q. 5. What was his business before you and he became partners?
A. Shirt-cutter.
Q. 6. Where is he now employed—Mr. Loeber?
A. I think he is with Sinzheimer & Deutsch; I am not positive, although I heard that Sinzheimer & Deutsch failed not long ago.
Q. 7. Where does he now live?
178 A. On the west side of New Market between Brown and Fairmount avenue.
Q. 8. Where did he live when you were partners?
A. At 860 North Fourth street.
Q. 9. Did he ever live in Lawrence street? If so, where?
A. Yes; he lived in Lawrence street; I can't give the number, but between Brown and Poplar, on the east side.
Q. 10. About how old a man is he?
A. I should judge him to be about 35 or 37, I guess.
Q. 11. Can you describe him?
A. He is a man about five feet nine and a half inches; has dark curly hair, a prominent nose, about dark complexion; has the appearance of being an Israelite. He weighs about 155.
Q. 12. Did he work with Sinzheimer before he became a partner with you?
A. Yes; I think he did.
Q. 13. Do you know any other Jacob Loeber in Philadelphia who is a shirt-maker?
A. No, sir; that is the only one I know.
Q. 14. Do you know any other person in Philadelphia of that name?
A. No. Yes; I know a baker, but I don't think he spells his name that way.

JOHN A. KOLTES.

Sworn to before me this 22d day of September, 1886.

ARCHER McLEARN,
Notary Public.

[SEAL.]

179 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice and consent, before Edward S. Berrall, notary public, at his office, No. 115 Broadway, New York city, on Thursday, the 23d day of September, 1886, at 10.30 o'clock in the forenoon.

Recess until 1.15 p. m.

After Recess.

Present: Mr. Skilton, Mr. Raegener.

SIDNEY C. WRIGHT, a witness produced on the part of the complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Sidney C. Wright; age, 65; Troy, New York, No. 238 North Second street; foreman and shirt-cutting, with Geo. B. Cluett, Bro. & Co.

180 Q. 2. Where is the factory of Geo. B. Cluett, Bro. & Co. now located?

A. At No. 441 River street, New York.

Q. 3. If you have anything to represent the present factory of Geo. B. Cluett, Bro. & Co. please produce it.

Question objected to on the ground that it is utterly immaterial, and that there is abundant proof that Cluetts' factory is situated on River street, Troy, and there is no issue on this question.

A. I have the letter-head of the firm, upon which there is a cut of their present factory; also a business card of the firm showing the same, and I here produce the same.

Mr. Skilton offers the card and letter-head in evidence on behalf of complainants, and the same are marked Complainants' Exhibit Cluett Letter-Head, E. S. B., N. P., and the business card referred to, and marked Complainants' Exhibit Cluett Card, E. S. B., N. P.

Q. 4. How long have you been in the employ of the firm of Geo. B. Cluett, Bro. & Company in your present capacity?

A. I have been foreman in the shirt department between eleven and twelve years.

Q. 5. How long have you been in the employ of the firm altogether?

A. It is over twenty years.

Q. 6. Prior to eleven and twelve years ago what were your duties in connection with the firm?

A. Foreman in the collar department—cutting-room.

Q. 7. Who made the patterns for the collar department?

181 A. I made all the collar patterns that were made up to the time I went out to the shirt department.

Q. 8. What do you know about the manufacture of Roman cord, so called, by Geo. B. Cluett, Bro. & Co.?

A. I got out the patterns for those—I mean for the Roman-cord collars.

Q. 9. Please explain what you mean by the Roman-cord collar.

A. A cord made and bound. A Roman-cord collar is made by making the Roman cord first and then putting it on the collar.

Q. 10. If you have samples of what you mean please produce them.

A. I have three samples, and I here produce them.

Q. 11. Who made the patterns for these Roman-cord collars?

A. I presume I made the patterns for these Roman-cord collars I hold in my hand, as I made the patterns at that time.

Q. 12. What time do you refer to by the words "that time" in your last answer?

A. As near as I can give the date it was previous to July, 1869.

Q. 13. When were collars like these three Roman-cord collars made by the firm?

A. In '68 and '69.

Q. 14. How do you fix that date as being the date or dates when such collars were made by the firm?

A. Being the year I lost my eye is the way I fix the date.

Q. 15. Please state the circumstances under which you lost your eye as stated.

A. In working on a pattern—I think these same Roman-cord collar patterns; it was an old pattern, cherry wood, very cross-grained, and I was working with a drawing-knife in a great hurry—a sliver flew off and hit me in the eye. It bruised my eye so that I was laid up a little over two months. During the time I was

182 completely blind in both eyes. I lost so much sleep that I got down into a fever. I got our family doctor, Dr. Teachout. He attended me and prescribed and used sugar of lead very freely, stronger than he prescribed. After I got so that I could go out Mr. Alfred Cluett went with me to Albany to an oculist. Dr. Robinson examined my eye, and he told me what the trouble was with it. He stated that it was a collection of sugar of lead, which formed a hard substance over the pupil of the eye.

Q. 16. Which eye was it?

A. My right eye.

Q. 17. What is the condition of your eye at the present time?

A. The sight of the eye is covered by a substance of sugar of lead; it presents a white appearance at once noticeable to any one who looks at me. My eye is weak, and I can only see a mere shadow through the obstruction.

Mr. Skilton offers in evidence on behalf of complainants the three Roman-cord collars referred to by the witness, and the same are marked Complainants' Exhibits Three Roman-Cord Collars, E. S. B., N. P.

Q. 18. Can you produce a sample of the Roman cord? And, if yea, please do so, and state when it was made.

A. I can and do. This particular cord was made no later than '69; it might have been made a year before, but it couldn't have been made any later than that time.

Q. 19. How are you able to identify it?

A. It is the most prominent cord we had—that is, the collar. We had a number of thousands of yards of it left after the season was over.

Mr. Skilton offers in evidence on behalf of complainants
183 the sample of Roman cord last mentioned by the witness, and the same is marked Complainants' Exhibit Roman Cord, 1868–'9, E. S. B., N. P.

Q. 20. How early was Roman cord put upon collars like Complainants' Exhibit Roman-Cord Collars by the Cluett firm?

A. 1868—the winter of '68. It might have been done the year before. We worked on it two seasons.

Q. 21. What was the object or purpose of putting the Roman cord upon the collars as upon Complainants' Exhibits Three Roman-Cord Collars?

A. For strength—beautifying and helping to keep the shape of the collar longer.

The witness at this point says that he desires to state that on further reflection he believes that he has been foreman of the shirt-cutting department for the thirteen years last past, instead of eleven or twelve years.

Mr. Skilton states that the question was a surprise to the witness, and he had not been previously requested to recall the number of years in which he had served in the capacity of foreman in the shirt-cutting department prior to his going on the stand.

Defendants' counsel objects to speeches on the record and of criticisms on the witness as to whether or not the question was a surprise to him.

Q. 22. Please state, if you know, who prepared the binders for the making of the Roman cord by the Cluett firm.

A. William J. Blakeley.

Direct examination closed.

184 Cross-examination by Mr. RAEGENER:

X Q. 23. Where did you get those three Roman collars?

A. I got them from Mr. Skilton to-day, the first I saw them.

X Q. 24. That is the first time you saw them?

A. Yes; that is the first I saw them; at this office.

X Q. 25. Where and when did you first see this strip of Roman cord, 1868–'9?

A. In this office, to the best of my knowledge. I might have seen it a number of years ago. It is the first I have seen it since we manufactured it—that piece.

X Q. 26. Please describe the pattern which you were handling at the time of the accident to your eye.

A. As near as I can tell, it was a quarter round, shape of those collars; from an inch and a half to an inch and three-quarters wide.

X Q. 27. Did you ever make such collars of the shape and size of the three Roman-cord collars without the Roman cord?

A. I have cut collars similar to those patterns to be made up without the cord.

X Q. 28. Then what has your recollection of the pattern and the accident to your eye to do with the making of the Roman cord at Cluett's?

A. That was what I was at work at when I hurt my eye. Almost everything we made at that time in the ladies' line was Roman-cord collars, and that impressed it upon my mind.

X Q. 29. Have you and Blakely talked about these dates?

A. No, sir.

Cross-examination closed.

SIDNEY C. WRIGHT.

Sworn to before me this 23d day of September, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

185 ROBERT CLUETT, a witness recalled on behalf of complainants, being duly sworn, deposes and says:

Q. 1. Have you any means of showing in an intelligent and compact shape the forms and styles in which you have embodied the invention involved in this cause in the manufacture of the firm of Geo. B. Cluett, Bro. & Co.?

Objected to, as the patent speaks for itself and the issue is as to whether the defendants have infringed, and on the ground that the question is immaterial.

A. I produce a card showing sketches, and also corresponding samples of material showing the method of securing and attaching the different parts of the bosom, the binding, and the shirt body. On this card the four upper sketches, containing representations in front and in sectional view, and also in enlarged sectional view of a portion representing the formation of the parts at and near the edge of the bosom—all these as they are shown in the drawing and in the specification of the letters patent here in question. Below these and separated therefrom by a space are nine other sketches of shirt fronts in front view, each associated with corresponding sectional

views, one of them of the entire shirt front and shirt body shown, and the other in enlarged sectional view and front view of the seams and binding, the sectional views being cut on the lines indicated by dotted lines upon each one of the several front views, respectively. Accompanying each set of sketches I have attached pieces cut from the corresponding portion of the shirt and shirt bosom for the purpose of further illustrating the arrangements of the different plies of material and the manner in which they are secured together.

186 Q. 2. If you have provided samples showing how the different styles represented in the card last mentioned are made up, please produce them.

A. I have provided such samples showing the different stages of manufacture and here produce the same.

The witness produced samples marked from 1 to 11, excepting number 6, which is omitted as a duplicate.

Mr. Skilton offers in evidence on behalf of complainants the card referred to in answer to question 1, and the same is marked Complainants' Exhibit Cluett Card and Samples, E. S. B., N. P.

Also the several samples marked from 1 to 11, and the same are marked Complainants' Exhibits No. 1 to 11 *seriatim*, except No. 6, E. S. B., N. P.

Q. 3. Will you please explain these several samples from 1 to 11 in their order?

A. No. 1 A represents a laid-on bosom, bound on the outer edge and in position to be secured to the body of the shirt. 1 B is the same, secured to the body by one line of stitching. No. 2 A represents a three-ply bosom laid on the body, ready for attachment. No. 2 B is the same, attached to body by one line of stitching. No. 3 A shows a three-ply set-in bosom, the back ply of which is secured to the body by a line of stitching, the two upper plies being bound ready for securing to the body. No. 3 B is the same, with a line of stitching through the binding securing the upper plies to the body and covering the raw edges. No. 4 A represents a three-ply bosom laid on ready for attachment. No. 4 B is the same, attached to the body by a line of stitching through the bosom inside the binding. No. 5 A shows a laid-on bosom, the bosom and reinforce piece united by the binding, the parts being attached by one line of stitching preparatory to being attached to the body. No. 5 B is the

187 body ready to receive the bosom and reinforce piece above mentioned. No. 5 C represents 5 A and 5 B secured together by a line of stitching on the bosom and through the bosom and body. No. 5 C has had a piece cut out of the edge of the bosom and body, which piece is secured to the card and there marked No. 5. No. 7 A represents a three-ply set-in bosom, secured to the body by a line of stitching preparatory to receiving the binding. No. 7 B is the same, with binding attached, and secured by a line of stitching on outer edge covering the raw edges. No. 8 A is a three-ply set-in bosom, attached to the body by a binding securing all the parts together at one operation. No. 8 B is the same, stitched

through the binding and body on the outer edge of binding. No. 9 A reprepresents the body with space cut out to receive the set-in bosom. No. 9 B is a three-ply set-in bosom ready for attachment to the body. No. 9 C is a strip of binding to be used in binding bosom and body together. No. 9 D represents 9 A and 9 B secured together by the binding strip 9 C at one operation by one row of stitching through the binding, bosom, and body. No. 10 A shows the body with reinforce pieces attached and opening cut out to receive the set-in bosom. No. 10 B represents a three-ply set-in bosom ready for attachment to the body. No. 10 C is a strip of bias-cut cloth used for the purpose of connecting the bosom and body together. No. 10 D shows 10 A and 10 B joined together by binding strip 10 C, the same being done at one operation by a row of stitching going through the bosom, the body, and binding. No. 10 D has a piece cut out at the edge of the bosom, body, and reinforce, which piece constitutes No. 10 sample attached to the card, Complainants' Exhibit Cluett Card and Samples. No. 11 A is a three-ply set-in bosom attached to the body by a binding strip, the under or lower edge of which is not folded, the edge of bosom being left up ready for a line of stitching on outer edge of the binding.
188 No. 11 B is the same, with the outer edge of binding stitched.

Adjourned to 10.30 a. m., Friday, September 24, 1886.

NEW YORK, *September* 24, 1886.

Met pursuant to adjournment.

Present: James A. Skilton, counsel for complainants; Louis C. Raegener, counsel for defendants.

Examination of ROBERT CLUETT continued:

Q. 4. Will you please describe the manufacture of the shirts upon the plan shown in the letters patent here in suit, starting with the first operation and giving all the details?

A. The material is laid upon the cutting board, said board consisting of a number of boards joined together, forming a long table—in some instances as long as eighty feet. In the cutting of the shirt bosoms the material is drawn to and into a cutting press like a paper-cutter. Steel dies are placed upon the material ninety-six or more layers thick, and by the pressure of the upper plate of the press or cutter the form of the bosom is cut out, the operation being repeated till the entire cloth upon the table is cut out. The dies or knives are separate and in different sizes, some of these dies cutting the cloth in the exact form of the bosom, while other dies cut out the material in such shape that after the pleat in the center of the bosom is formed the parts so cut have the exact shape and size of the bosom. As these parts are cut they are laid on a
189 table near the press, after which they are tied in bundles and passed to hands, who place two or more plies together preparatory to forming the pleat in the center, the plies being held together before and during the process of stitching by little dabs of starch or paste. By being so held the lap or centre pleat is

formed and the row or rows of stitching applied without danger of the parts becoming separated. After the stitching already described the bosom is then ready to be applied to the shirt. In a three-ply inserted bosom the back layer is not pasted to the other two layers until after the forming and stitching of the pleat in centre. By this means the outer edges of the bosom are uniform and form a guiding line for the application of the body to the bosom and the binding to these several parts. In one form the back ply is first secured to the body by a line of stitching, the two upper plies being bound separately, and finally secured to the body by a line of stitching through the binding. In another form this securing stitch passes through the several plies of bosom, the body, and reinforcing pieces, if there be any, and the binding, securing all these parts together, binding all the parts together with one line of stitching. In other words, the binding is attached and the parts secured together by this one line of stitching. Another form, where the bosom is what we have designated as a laid-over bosom or set-on bosom, the two upper plies of the bosom are bound together and pasted to the body and secured to the same by a line of stitching through the bosom, binding, and body. In another form of laid-over or set-on bosom the upper plies of the bosom are bound together, placed upon the body, and secured to the same by a line of stitching passing through the bosom and body at a point near the binding, this line of stitching also including and securing the tab, providing the shirt is made with a tab. In another form,
190 where reinforcing pieces are used, the same are secured to the bosom by a binding, said binding attaching the pieces to the bosom by a line of stitching passing through binding, bosom, and reinforcing pieces. These parts are then placed upon the body and secured to the same by a line of stitching passing through the bosom and body at a point near the binding, this row of stitches also securing the tab, as previously described.

Q. 5. What was the general condition of the ready-made shirt manufacture and business between 1873 and 1879?

Objected to as immaterial and irrelevant.

A. During the period mentioned the business was somewhat injured by the introduction of a partly made shirt. People who had formerly bought the completed laundered shirts bought this partly made garment, and had it finished at their homes. I think it was this partly made shirt that resulted in offering to the trade unlaundered shirts, these unlaundered goods being offered at very low prices in order to compete with the partly made goods, thus affording but a comparatively small profit to the manufacturer. During this period quite a depression existed throughout the country among shirt manufacturers. This partly made shirt was offered for sale in different cities throughout the country at branch stores established by the Keep firm.

Recess, half an hour.

Q. 6. Where and by whom were the variations in the formation

of the bound shirt bosom represented in Complainants' Exhibit Cluett Card and Samples from No. 4 to No. 11 first developed and produced?

Objected to as calling for a conclusion.

191 Witness can state the facts but not the conclusion.

A. They were developed and produced at our factory in Troy, and were the result of various experiments, in some cases of those employed by us, these improved methods being suggested from time to time as our operatives became more expert in the handling of these goods—I might say, in binding the parts together.

Q. 7. Please state whether any of these forms numbered from 4 to 11 have been made the subject of an application or applications for letters patent by you or by any of your employees, so far as you know, subsequent to the granting of letters patent here in suit.

Objected to as immaterial and irrelevant and improper, there being but one patent here in suit.

A. No member of our firm has applied for or obtained letters patent for a bound-bosom shirt other than the one in question, nor am I aware that any of our employees have made application for such patent or patents, as the various methods developed were considered to be covered by our patent of November 17, 1874.

Q. 8. Are you able to fix the date of manufacture of Complainants' Exhibits "Three Roman-Cord Collars" and "Roman Cord, 1868–'9?" And, if yea, please do so.

A. In my previous testimony I stated that we manufactured these goods during or prior to 1870. I cannot, of course, say at what particular time these two exhibits were produced, but believe them to have been made at or near the period named.

Q. 9. Please give the recent history of these two exhibits, so far as it is within your knowledge.

192 A. They were placed in my hands on the morning of the 17th of this month, 1886, by our machinist, Mr. Blakeley, with the remark that he had discovered them in the garret of his house.

Latter part of answer objected to as hearsay.

Direct examination closed.

Cross-examination by Mr. RAEGENER:

X Q. 10. Do you or your firm or any of your employees claim to have invented the Jeddo cord, broadly and separately?

Question objected to as improper cross-examination, it being without foundation in the direct testimony of this witness here.

A. No member of our firm makes such claim, nor do I believe that such claim is made by any of our employees.

X Q. 11. This industry of making ready-made shirts in large factories is of comparative recent origin, is it not?

A. So far as our own city is concerned, the manufacture of shirts in a very large way is comparatively a recent thing. The manu-

facture of shirts for the trade was carried on in Troy many years ago, but to nothing like the extent it is carried on at the present time.

X Q. 12. Will you please give the names of some of the large shirt manufacturers in Troy who do a business as large as your own or larger at the present time?

A. Nearly if not quite all the firms in Troy who manufacture shirts largely also manufacture collars and cuffs. It is, of course, impossible for me to testify as to the extent of their business, outside our own firm, or which branch of their business yields the largest sale.

193 X Q. 13. Referring to your last answer and including in the previous question those manufacturers who also make collars and cuffs, will you now give the names?

A. There are several large manufacturers of shirts, collars, and cuffs in Troy. Among the number I will mention Miller, Hall & Hartwell, George P. Ide & Company, Tim, Wallerstein & Company, and our own firm.

X Q. 14. All of these concerns mentioned by you employ a large number of operators. In your opinion, what is the lowest number they employ?

A. That is a matter to which I have given little or no thought. I have no means of ascertaining as to the number of hands employed by other firms than our own. We are not in the habit of stating how many hands we employ in our own factory, nor do we seek to know how many others employ. It is possible that some of the firms named employ a larger number of hands than are employed by our firm; but if this were a fact it could hardly be considered as an indication that in dollars and cents their business or the business of any one of these firms was larger than our own, as our goods—shirts, collars, and cuffs—are made almost exclusively for the fine retail trade, and consequently have a larger value than goods of the cheaper grade, which are made for the jobbing trade.

X Q. 15. Did you not state a few moments ago "I presume that all of these concerns employ more hands than we do, if that is what you mean," or words to that effect?

A. I did make a remark similar to the one quoted, but also stated, in conversation with Mr. Raegener, that I was simply giving an opinion, and that I had no means of judging as to what other manufacturers produced.

X Q. 16. The concerns mentioned by you are all of comparatively recent origin, are they not? And, if not, please state when, to your knowledge, they commenced to manufacture largely in Troy.

194 A. I should say that most of them, if not all, that I have mentioned began the manufacture of shirts in Troy later than 1860.

X Q. 17. You are familiar with the letters patent here in suit and with the claims thereof, are you not?

A. I have read them several times.

X Q. 18. The first claim of the patent describes a bosom bound on the outer edge with a stitched binding and attached to the body

by a separate line of stitching through such binding. Where do you find such a combination in figures 9 and 10 of Cluett card and samples?

A. Nos. 9 and 10 are made on the second claim, but this method is not specifically described in claim 1, in my opinion.

X Q. 19. In view of this language in the specification of your patent, in the third paragraph of the same, commencing with the words "its construction" and ending with the words "and not in the bosom alone," the words referred to being as follows: "This binding extending entirely around the bosom, except at the neck and yoke, and holding the parts firmly in place by a line of stitches before the bosom is inserted in or placed on and attached to the body of the shirt, and finally attaching the bosom so prepared to the shirt body in the manner hereinafter shown," do you still mean to be understood that the second claim of your patent allows you to unite body, bosom, and binding by one row of stitches?

A. I do.

X Q. 20. Will you please let us know by what process of argument or reasoning you arrive at this conclusion, in view of the clear language of the specification and claim to the contrary, as I believe?

Question objected to on the ground that this witness is not
195 offered as an expert in the construction of patents and claims of patents or of the patent here in question.

A. In my opinion, the second claim clearly covers this method of binding the bosom and body together, as it describes shirt bosom composed of two or more thicknesses of cloth and the shirt front bound together with a line of stitching, and Nos. 9 and 10 are so constructed.

X Q. 21. Where do you find in figures 4, 5, 9, or 10 two rows of stitches through the binding?

A. In the figures mentioned on the Cluett card and samples but one row of stitching is shown through the binding.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 22. Were any of the parties of the firms named in your answer to X Q. 13 in the shirt business prior to the commencement of business by the firms named in Troy?

A. I have heard that Mr. Wallerstein, of Tim, Wallerstein & Co., one of the defendants herein, manufactured shirts in Philadelphia prior to his coming to Troy. The Ide firm alluded to were in the collar-and-cuff business in Troy a number of years prior to their beginning the manufacture of shirts and had an extensive acquaintance, which, no doubt, was of much value in the introduction of their shirts. I think I might truthfully make the same statement in regard to Mr. Tim, one of the defendants herein.

R. D. Q. 23. Which ones of the firms mentioned in your answer to X Q. 13 are engaged in manufacturing bound-bosom shirts, if any?

A. To the best of my knowledge and belief, all are so engaged.

Redirect examination closed.

196 Recross-examination by Mr. RAEGENER:

R. X Q. 24. You come to this belief because you claim, as you do, that every shirt with a binding on the bosom, whether with one or two rows of stitching on the binding, is made in accordance with your patent?

A. I have not made the claim you mention in my testimony.

R. X Q. 25. Don't you claim that 9 and 10 and 4 and 5 on the Cluett card and samples, with only one row of stitches through the binding, are made in accordance with your patent?

A. Yes.

The last question and answer objected to on the ground that in the three infringing shirts there are two lines of stiching, and that the question and answer are immaterial and irrelevant, and the same objection is made to previous questions and answers of the same character.

ROBERT CLUETT.

Sworn to before me this 24th day of September, 1886.

EDWARD S. BERRALL,

[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

197 NEW YORK, *September* 24, 1886.

Met, pursuant to adjournment, at 10.30 o'clock a. m.

Present: James A. Skilton, Esq., counsel for complainants; Louis C. Raegener, Esq., counsel for defendants.

WILLIAM H. RICHARDSON, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. William H. Richardson; age, 34; Boston, Mass., 385 Washington street; merchant, men's outfittings, and shirt-maker.

Q. 2. How long have you been engaged in the business of shirt-making?

A. Eleven years, and the head of the firm of Richardson & Gertz.

Q. 3. Did the firm of Hutchinson, Pierce & Co., of No. 746 Broadway, New York, manufacture for you a bound-bosom shirt; and, if yea, are you able to identify a sample of the shirts so made by them?

A. Yes; and I am able to identify it. It is the "Complainants' Exhibit Hutchinson, Pierce & Co. Exhibit A, Wm. H. B., N. P." I ordered some shirts of Hutchinson, Pierce & Co.; furnished them a sample which had been made for me by Geo. B. Cluett, Bro. & Co. The goods were made and delivered. The exhibit is one of them, and the others were all like it. On ordering another lot their agent,

to whom I gave the order in Boston, refused to make them as before, saying that he would make one practically the same, but not like it.

198 Q. 4. Were you notified that these shirts made for you by Hutchinson, Pierce & Co. were covered by the Cluett patent here in suit?

A. I was.

Q. 5. What action did you take in the matter?

Objected to on the ground that it is immaterial and irrelevant.

A. I simply stopped ordering any more shirts from them, and also further agreed not to infringe the patent.

Same objection to the answer.

Q. 6. What other forms, if any, of bound-bosom shirts has your firm made and sold?

A. One that we make ourselves.

Same objection.

Q. 7. Can you produce a sample?

Same objection.

A. I can and do.

Mr. Skilton offers in evidence on behalf of complainants the shirt so produced, and the same is marked Complainants' Exhibit Richardson Shirt, E. S. B., N. P.

Same objection.

Q. 8. Are you manufacturing the shirts like Complainants' Exhibit Richardson Shirt under a license from Geo. B. Cluett, Bro. & Co. under the letters patent here in suit?

A. I am.

Q. 9. How long have you had experience, practically, with the Cluett bound-bosom shirt and what has been the nature of your experience?

A. About eight years in time. I have made it, sold it, and worn it.

199 Q. 10. What practical advantage have you found in this bound-bosom shirt?

A. The binding forms a welt which stops pressure on the bosom, thus preventing it wrinkling. It serves as a welt to stop the starch getting onto the body at sides of bosom, thus preventing it cracking so easily. It pockets the raw edges and covers them. It makes a much sightlier shirt, which is easier sold. It enables us to make a bosom with less susceptibility to wrinkling and is easier made. The bound edge serves as a reinforcement of the bosom at the edge and is less easy to crack where the body is joined to the bosom. We cannot make as smooth shirt in any other way we know of as regards the bosom. It is much easier laundered.

Q. 11. What is the nature of your experience in laundering?

A. I have done a very large laundry business for the last nine years in connection with my business.

Q. 12. By whom was this particular sytle of bound-bosom shirt as shown in Complainants' Exhibit Richardson Shirt first designed or gotten up?

Same objection.

A. By myself.

No cross-examination.

WM. HENRY RICHARDSON.

Sworn to before me this 24th day of September, 1886.

EDWARD S. BERRALL,
Notary Public, Kings County.

[SEAL.]

Cert. filed in N. Y. county.

200 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
against
HORACE B. CLAFLIN *et al.*
} In Equity.

Please take notice that we shall proceed to take proofs in rebuttal for final hearing on the part of the complainants in the above-entitled suit, under the 67th rule in equity, before Edward S. Berrall, notary public, at his office, No. 115 Broadway, New York, on Monday, September 27th, 1886, at 10.30 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day at such time and place and without further notice.

Dated September 25th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

September 25, 1886.—Due and timely service accepted.

LOUIS C. RAEGENER, *Of Counsel.*

201 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice, before Edward S. Berrall, notary public, at his office, No. 115 Broadway, New York, on Monday, September 27th, 1886, at 10.30 o'clock in the forenoon.

Present: James A. Skilton, Esq., of counsel for complainants; Louis C. Raegener, Esq., of counsel *of* defendants.

HENRY G. FISK, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Henry G. Fisk; age, 52; Astoria, Long Island; manu-
202 facturer of men's furnishing goods, of the firm of Fisk, Clark & Flagg, 686 Broadway, New York.

Q. 2. How long has your firm been doing business in the city of New York?

A. Since January, 1867.

Q. 3. What was your business prior to 1867, and where?

A. Men's furnishing goods, with John M. Davies & Co., New York city.

Q. 4. What experience have you and your firm had in the manufacture and sale of bosom shirts or gentlemen's shirts with bosoms?

A. We manufactured shirts from about 1869 to 1878; since that time we have made few.

Q. 5. Did your firm ever manufacture a shirt in which there was used upon the bosom a so-called pipe edge? And, if yea, please give the history of that manufacture.

A. We made a pipe-edge shirt in 1874. It was made from a sample I purchased in Paris in 1873. We continued to manufacture that style of shirt for about one year.

Q. 6. Can you produce the sample referred to in your last answer? And, if yea, please do so.

A. I can; this is the shirt.

Mr. Skilton offers in evidence on behalf of complainants the shirt referred to in the last answer, and the same is marked Complainants' Exhibit Fisk Pipe-Edge Shirt, Sept. 27, 1886, E. S. B., N. P.

Q. 7. Was this shirt largely introduced and sold throughout the United States?

A. It had a large sale for upwards of six months.

Q. 8. Had any other concern manufactured or sold a similar shirt before your introduction of this pipe-edge shirt in the United States?

A. They had not. I had the shirts made from this sample I brought from Paris.

203 This testimony objected to on the ground that is immaterial and irrelevant, it not being rebuttal, neither elucidating the state of the art prior to the date of the invention and, in fact, subsequent to the issue of the patent here in suit.

Q. 9. When was the manufacture of this pipe-edge shirt commenced? Please give the date.

A. By my firm in 1874. The sample I purchased in Paris in 1873.

Q. 10. What other form or style of shirt did your firm manufacture about that time, if any? And please state the facts in regard to it, its conception, and subsequent history.

Same objection.

A. After making the pipe-edge shirt for about six months we introduced a shirt with fancy strips laid on the bosom of the shirt and stitched near the edge of the bosom, collar, and cuff, as shown in the shirt I now hold in my hand. This was, as near as I can remember, in July, 1874, that we commenced the manufacture, and we continued to manufacture for about six months. This was a dress shirt.

Q. 11. How was this last-mentioned shirt originated?

A. From a sample that I purchased in Paris in 1872. Although having purchased this shirt a year before I bought the pipe-edge shirt, we did not begin to manufacture it until 1874, July or thereabouts.

Q. 12. To what extent was this shirt manufactured and sold?

A. We made, I should say, about a hundred dozen a week for the first three months; after that the sales dropped down, and at the end of six months from the time we commenced to
204 manufacture them we stopped making them almost altogether.

Q. 13. Is the sample you hold in your hands the identical shirt purchased in Paris in 1872, brought to this country, and made the basis or sample of the manufacture to which you have just referred?

A. Yes; it is.

Mr. Skilton offers in evidence on behalf of complainants the shirt last referred to, and the same is marked Complainants' Exhibit Fisk Fancy-Trimmed Shirt, Sept. 27, 1886, E. S. B., N. P.

Q. 14. What do you understand to be the object of the fancy strip on this last exhibit and the pipe edge on the previous exhibit?

A. Simply ornamentation.

Q. 15. Please state whether the pipe edge and fancy styles shown in these two exhibits were copied by other manufacturers within the United States following your introduction of these styles.

Objected to. The witness is asked to give expression to a fact about that which at best he can have but an opinion.

A. They were, very extensively.

Q. 16. How was the pipe edge and the fancy strip used in these imitations by others?

A. They were made in the same way that we made them, but of a much cheaper quality; sold at a very much less price.

Q. 17. I place in your hands for examination two exhibits of sample shirts or shirt fronts, one marked Def'ts' Ex. X, Borchardt's Shirts, Jan. 7, '86, L. T., N. P., and Def'ts' Ex. Y, Borchardt's Shirts, Jan. 7, '86, L. T., N. P., and I call your attention particularly to the manner in which the bosoms of these two exhibit shirts
205 are made and inserted in the shirt. After you have examined them carefully please state whether prior to the year 1875 you ever saw or knew of a shirt manufactured in the same manner or sold in the city of New York.

A. I never saw a shirt made or sold in the city of New York like Defendants' Exhibit X referred to.

Q. 18. What is your opinion as to the manufacture and sale of a shirt made like Defendants' Exhibit X in the city of New York, either prior to 1875 or at any time? And in answering this question I call your attention particularly to the condition of this exhibit at and about the outer edges of the bosom, where they join the edges of the shirt body as cut out.

Objected to as incompetent on the ground that the opinion of the witness is not proper rebuttal testimony in answer to positive statements made in defendants' case.

A. I should say it was not a merchantable article. I don't think shirts were ever made or sold this way, like Defendants' Exhibit X.

Q. 19. Please state why.

A. Made in this way with raw edges would certainly make it unsalable. It is unfinished. The edges would fray out. It would be apt to irritate the body.

Q. 20. Please continue your answer to Q. 17 in relation to Exhibit Y.

A. As to Defendants' Exhibit Y, I never saw one.

Q. 21. What opportunities did you have prior to 1875 to have seen shirts like these two exhibits if they had been introduced and on sale in the city of New York?

A. Being manufacturers of shirts at that time, we naturally
206 had a curiosity to know what other manufacturers of shirts were making, and when visiting the trade we had an opportunity of seeing what other manufacturers were making. If shirts had been made at this time in this manner, referring to Exhibits X and Y, I would most likely have seen them.

Q. 22. Did you ever see shirts of an approximately similar style? And, if yea, state when, where, and how.

A. I have seen shirts as far back as 1856 or 1857 which somewhat

resemble this shirt, but the bosom was not put into the shirt in this manner. The bosom was joined to the shirt by laying a piece on the top of the bosom and the body, bringing the two edges together as near as possible; also having a piece laid on underneath the bosom and shirt body, as in the sample I now have, which is of French manufacture.

Q. 23. Please give the history of the sample last referred to.

A. This sample was bought in Paris in 1875, the summer of 1875, by my partner, Mr. Flagg.

Q. 24. For what purpose?

A. It was bought on account of its being a little novelty at that time, and also on account of its being a new material for shirts.

Mr. Skilton offers in evidence on behalf of complainants the shirt last mentioned, and the same is marked Complainants' Exhibit Fisk Ruffled-Bosom Shirt, September 27, 1886, E. S. B., N. P.

Q. 25. Prior to 1875 and back to the time when your firm commenced the manufacture of bosom shirts what was the usual method of inserting bosoms into the shirt—that is to say, in what relation were the edges of the bosom and the edges of the shirt body usually placed at that time?

207 A. They were simply hemmed together.

Objected to as immaterial and irrelevant, as subsequent to the issue of the patent.

Q. 26. In what other manner, if any, had you known, prior to 1875, ruffled-bosom shirts like Complainants' Exhibit Fisk Ruffled-Bosom Shirt to be inserted—that is, with what difference of manufacture in that respect?

A. None; always made like this sample.

Q. 27. Do you know the firm of Geo. B. Cluett, Bro. & Company, of Troy; and, if yea, have you ever purchased shirts of their manufacture?

A. I am acquainted with that firm and have sold their shirts many years ago—I think about 1876; possibly '75.

Q. 28. Please describe the shirts referred to in the last answer.

A. They made a shirt which was a three-ply bosom extending near to the top or shoulder seam; a small space, V-shaped, was left with two thicknesses. The object was to make the bosom fit better at the top and prevent the bosom breaking or crushing. It was thought that this invention obviated that difficulty. I cannot speak from actual knowledge that it produced that result, never having had one of the shirts on, but it was generally considered to be an improvement over the old method.

Objected to as immaterial.

Q. 29. Will you please examine the sketches and samples, from 1 to 11, shown in Complainants' Exhibit Cluett Card and Samples, and also examine the corresponding Complainants' Exhibit, from No. 1 to No. 11, showing the different steps and stages of manufacture, and state your opinion, in view of the examination so made,

as to the character of the shirt produced, and of the methods
208 or processes of manufacture shown, as compared with the shirts with bosoms and the methods or processes of manufacture in use prior to 1875—January?

A. I have examined all the samples in the exhibits in question. These are the only shirts I have ever seen made in that way. Making shirts this way produces a better finish—more sightly than the old method. I should judge it to be more economical in manufacturing than the old method. I should judge the heavy edge would tend to make the bosom stiffer; it would absorb starch, consequently make a better-fitting shirt, and it certainly must be more durable. I should say that it was a decided improvement over any other make of shirt.

Q. 30. When did open-back shirts first attract your notice?

A. In 1866 my partner, Mr. Clark, had shirts made with open back, with pleated bosom, and wore them here, in the city of New York; these were square bosoms.

Q. 31. When did the shield-shaped bosom first appear in the United States, with closed front and open back, if you know?

A. I think it must have been about 1868.

Q. 32. Is there any special difficulty, or is it an easy matter, or was it so in 1873–'4, to insert a shield-shape or round-bottom bosom into a shirt body?

A. It was considered rather difficult to do; it required experienced hands to make a perfect job.

Q. 33. From your examination of these Complainants' Exhibits, from No. 1 to No. 11, showing the steps of manufacture as illustrated thereby and therein, what have you to say as to the method therein shown or pursued in securing or inserting the bosom upon or into the shirt, as compared with the method of securing or inserting round-bottom shirt bosoms prior to 1874–'5?

209 A. The method is much more simple, and would certainly make a much better fitting article than the old method and is much more durable.

Direct examination closed.

No cross-examination.

HENRY G. FISK.

Sworn to before me this 27th day of September, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Whereas Mr. Skilton desires to go on the balance of the days still remaining in which he has a right to take testimony; and whereas Mr. Raegener is obliged to leave town, it is understood that Mr. Skilton have the right to go on on Monday, Tuesday, Wednesday, and Thursday of next week, and that his time to take testimony expires on Thursday night, as provided for in the order.

210 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
against
HORACE B. CLAFLIN *et al.* } In Equity.

Please take notice that we shall proceed to take proofs in rebuttal for final hearing on the part of the complainants in the above-entitled suit, under the 67th rule of equity, before Edward S. Berrall, notary public, at his office, 115 Broadway, New York, on Monday, October 4th, 1886, at 10.30 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day, at such time and place and without further notice.

Please take notice that we shall also proceed to take proofs in rebuttal for final hearing on the — complainants in the above-entitled suit before Archer McLearn, notary public, at his office, 400 Chestnut street, Philadelphia, on October 5th, 1886, at 11 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day, at such time and place and without further notice.

Dated New York, September 29th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

September 29, 1886, due and timely service accepted.

211 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice, before Edward S. Berrall, notary public, at his his office, 115 Broadway, New York, on Monday, October 4th, 1886, at 10.30 o'clock in the forenoon.

Present: James A. Skilton, Esq., of counsel for complainants; Louis C. Raegener, Esq., of counsel for defendants.

Adjourned to Thursday, October 7, 1886, at 10.30 o'clock a. m., owing to unaccountable absence of witness.

212 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice, before Archer McLearn, notary public, at his office, No. 400 Chestnut street, Philadelphia, Pennsylvania, on Tuesday, the 5th day of October, 1886, at 11 o'clock a. m.

Present: James A. Skilton, Esq., of counsel for complainants; David Tim, Esq., solicitor for defendants.

CARRIE L. BAKER, a witness produced on behalf of the complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
A. Carrie L. Baker; age, 39; 523 Vine street; bosom-maker.
213 Q. 2. Where were you engaged in the latter part of 1871?
A. On Arch street, below Fourth.
Q. 3. In whose employ?
A. Mr. Alexander Sinzheimer, now with Hagedorn & Newman, of Philadelphia, Carter's alley.
Q. 4. On what kind of work were you engaged in 1871 while in Mr. Sinzheimer's employ?
A. Hemming pocket handerchiefs.
Q. 5. How long did you continue in Mr. Sinzheimer's employ?
A. From four to six weeks.
Q. 6. Where were you next employed and by whom?
A. By Mr. Tillett, a shoe manufacturer, 505 Market.
Q. 7. By whom were you next employed and when?
A. Mr. Sinzheimer, in January, 1872.
Q. 8. How long did you remain in Mr. Sinzheimer's employ from January, 1872?
A. Up to a week ago from last Saturday.
Q. 9. Between January, 1872, and January, 1876, on what style of work were you employed by Mr. Sinzheimer?
A. Mostly pleat work on bosoms up to 1875.
Q. 10. Between January, 1872, and January, 1876, did Mr. Sinzheimer make any shirt bosoms or shirt fronts in which there was a strip of material secured to the edge of the bosom, intended to be turned over the edge before the front was fastened to the shirt body; and, if your answer is yes, when were shirt fronts first made by Mr. Sinzheimer in that manner?
A. My answer is yes; in 1875.

Q. 11. In what part of the year 1875 was this first done by Mr. Sinzheimer?

A. As early as January.

Q. 12. Will you please make use of the piece of paper I
214 will now place in your hands to cut out a sample showing how the edge of the shirt fronts last mentioned by you was formed?

A. I have made the model called for in the question. The strip was held to the edge of the bosom by the line of stitches represented by a series of ink dots near the folded edge on the front of the part representing the shirt bosom. The parts are pinned simply for the purpose of holding them together. The shirt front is marked "bosom" and the other part is marked "folded strip."

Mr. Skilton offers the model just prepared in evidence on behalf of complainants and the same is marked Complainants' Exhibit Baker's Model, A. McL., N. P.

Q. 13. Do you know for whom these fronts provided with a strip, as in the model you have just made, were manufactured by Mr. Sinzheimer?

A. I think they were made for Mr. Rosenbach, then a shirt manufacturer in the city of Philadelphia.

Q. 14. What was the style of bosoms manufactured by Mr. Alexander Sinzheimer between January, 1872, and January, 1875?

A. Mostly pleat-work up to 1875.

Q. 15. And what was the shape of the bosoms made by him up to that time?

A. They were all square bosoms—straight work.

Q. 16. What was the shape of the bosoms which were provided with a strip as you have stated?

A. I think they called them shield-shaped.

Q. 17. How far did the strip extend on each side of the bosom?

A. Down to the straight edge.

Q. 18. How was the bottom of the bosom left?

A. Unfinished—for the tab, I think. We had nothing to do with putting on the tab.

215 Q. 19. Of what kind of material was this strip composed; was it composed of straight-cut material or of bias-cut material?

A. Bias cut.

Q. 20. Were these bosoms or the material for them cut by Mr. Sinzheimer or in Mr. Sinzheimer's establishment, or were they cut elsewhere and sent to Mr. Sinzheimer to be made up?

Objected to as leading. Question withdrawn.

Q. 21. Where was the material cut for these shield-shaped bosoms, if you know, to be manufactured by Mr. Sinzheimer?

A. I don't know.

Direct examination closed.

Cross-examination by DAVID TIM, Esq.:

X Q. 22. What is your present employment?

A. I am out of employment at present.

X Q. 23. How long?

A. A week ago last Saturday.

X Q. 24. What was your employment previous to that?

A. Bosom-maker.

X Q. 25. How long have you been a bosom-maker?

A. Fourteen or fifteen years.

X Q. 26. Can you fix, as near as possible, the exact time that you first commenced to work for Mr. Sinzheimer?

A. In July of '71.

X Q. 27. How do you fix the date?

A. From memory.

X Q. 28. Are there any circumstances by which you can fix this date, exclusive of the answer previously given?

A. No, sir.

216 X Q. 29. Are you enabled at this date to remember what transpired over fifteen years ago?

A. No, sir; but nothing in connection with this case.

X Q. 30. Could it not have been possible that you first commenced to work for this gentleman in the year 1872?

A. I don't understand the question.

X Q. 31. As you have stated that there are no circumstances by which you can recall the date, and in your examination-in-chief relied upon and testified simply from memory, I ask you whether it is not possible that you may have made a mistake in the date, and that you commenced to work for Mr. Sinzheimer for the first time in the year 1872.

A. I commenced to work on bosoms in the year 1872.

X Q. 32. Question repeated.

A. I first commenced to work in July, '71.

X Q. 33. Question repeated.

A. I commenced to work for Mr. Sinzheimer for the first time in 1871.

X Q. 34. This is no answer to my question, and the question is now repeated to you for a direct answer.

A. I gave the date as 1871. I am positive it was in 1871.

X Q. 35. How old were you when you first commenced to work for Mr. Sinzheimer?

A. About 24.

X Q. 36. Don't you know your exact age at that date?

A. I was in my 24th.

X Q. 37. Where did you say that Mr. Sinzheimer was engaged at that time in business?

A. On Arch, below Fourth.

X Q. 38. Were there other employees there besides yourself; and if so, how many?

A. I do not know the number.

X Q. 39. About how many?

217 A. I couldn't give you any idea.

X Q. 40. What business was he engaged in at that time?

A. Making shirt bosoms and hemming pocket handkerchiefs.

X Q. 41. How much of the building did Mr. Sinzheimer occupy?

A. One floor.

X Q. 42. Where were you living at this time—that is, July, 1871?

A. 237 North Tenth.

X Q. 43. Where were you living in January, 1872?

A. I think at the same place.

X Q. 44. Are you positive of it?

A. Yes, sir.

X Q. 45. Where was Mr. Sinzheimer's place of business in January, 1872?

A. On Arch below Fourth.

X Q. 46. How long did he remain there?

A. I think until '78.

X Q. 47. Where did he go from there?

A. To Camden, New Jersey.

X Q. 48. Did you go with him?

A. I did.

X Q. 49. And from Camden where did he go to?

A. 212 to 224 Carter's alley, Philadelphia.

X Q. 50. During the time that Mr. Sinzheimer was on Fourth and Arch streets did he occupy any more space than the one floor, as you have testified?

A. No, sir; he occupied less.

X Q. 51. Can you fix the number of employees at Mr. Sinzheimer's establishment in the year 1872, or about the number?

A. I cannot.

X Q. 52. Can you tell the names of any of them?

A. Yes, sir; Mary Wilkes, Mary McLaughlin, Susan Tobias, Annie and Jennie Monteith, sisters; Tessie Kane, Katie Piter-

218 man, Mary Clark, Lizzie McLaughlin. That is not all I remember, but I can't think of the additional names.

X Q. 53. Were you absent from the place at any time during the year '72; and, if so, about how many times?

A. I might have been absent a day or two at a time. I could not tell how many times.

X Q. 54. Would you be absent more than six times during the year?

A. I could not tell you.

X Q. 55. During the year 1872 did Mr. Sinzheimer have any outside employees or hands working on bosoms?

A. I think he did.

X Q. 56. And in the year 1871?

A. I don't know anything about bosoms in 1871; I was at work on handkerchiefs.

X Q. 57. What part of the floor were you located and engaged in your work—in the year 1872?

A. Near the centre.

X Q. 58. Where was the stock-room in the year 1872?

A. There was but one room, apart from the dressing-room and one small ironing-room.

X Q. 59. Were there any wooden partitions in this floor?

A. Yes, sir; part way to the ceiling.

X Q. 60. The space occupied by you and the other employees was partitioned off, was it not, so that when you were engaged in work you would not be seen by an outsider or stranger who came to transact any business with Mr. Sinzheimer?

A. No, sir; unless it was transacted at the head of the stairs on the landing.

X Q. 61. What were the wooden partitions that you have reference to?

A. A half-way partition along the stairway, and to form an ironing-room and a dressing-room.

X Q. 62. Where did Mr. Sinzheimer keep the bosoms after they were completed?

A. I think they were ironed and shipped at once.

219 X Q. 63. Do you or do you not know whether he had a place on the same premises where you were or elsewhere where he kept his stock of bosoms after they were completed?

A. I do not.

X Q. 64. After the bosoms were completed by yourself or the other hands engaged in the same work what became of them?

A. They went to the ironing-room.

X Q. 65. And after that what became of them?

A. I don't know.

X Q. 66. Were your duties in anywise connected with the ironing-room?

A. No, sir.

X Q. 67. After the bosoms left your hands would you see them again?

A. Sometimes, as they were packed.

X Q. 68. And in such an instance is it not a fact that you would have but a casual view of them?

A. We would have all the view we wanted.

X Q. 69. Did you make it a special business of yours to see or examine the bosoms after they came from the ironing-room?

A. I did not.

X Q. 70. Then it is a fact that in seeing these bosoms being packed you had but a casual view of them. Is that not so?

Question objected to as indefinite and immaterial.

Mr. Alexander Sinzheimer here makes his appearance in the room without being summoned as a witness and without having any right whatever to intrude himself upon this examination, and Mr. Skilton requests him to leave the room.

220 Mr. Tim replies that Mr. Sinzheimer is here at the request and solicitation of myself, and, seeing or knowing of no reason why he should withdraw, requests Mr. Sinzheimer to remain.

Mr. Skilton states that Mr. Sinzheimer has heretofore been called as a witness on behalf of defendants herein and has been cross-ex-

amined; that under the stipulation entered into between counsel Mr. Sinzheimer is liable to be called as a witness for further cross-examination on part of complainants or by complainants, and the request that Mr. Sinzheimer shall leave the room is made as a matter of right on the part of complainants that he shall be excluded during the taking of testimony of other witnesses with whom his previous testimony given herein may be compared or is to be compared and measured. Therefore Mr. Skilton requests again that Mr. Sinzheimer immediately leave the room.

Mr. Skilton further states that after waiting a sufficient interval Mr. Sinzheimer does not retire and seems to refuse to retire unless physical force is used to compel him to do so. In view of this fact and of the evident purpose to intimidate this witness and interfere with the regular and orderly taking of this testimony, the further taking of testimony is now adjourned until 2 o'clock p. m.

2 p. m. parties reconvened.

A. That is all we wanted.

X Q. 71. Were these shirts, fronts, or bosoms packed up in boxes or paper after they came from the ironing-room?

A. I do not know.

X Q. 73. Did you see, examine, or inspect all the shirt
221 bosoms manufactured by Mr. Sinzheimer in the year 1872 after they came from the ironing-room?

A. I did not.

Mr. Sinzheimer continues to persist in remaining in the room unrequested, sitting near and directly facing the witness.

Mr. Tim states that he is in the room at his request.

X Q. 73. Are you positive that Mr. Sinzheimer's place of business was on Arch street below Fourth in the year 1871?

A. Yes, sir.

X Q. 74. Are you positive that he moved from there to Camden?

A. I am.

X Q. 75. Are you as positive of the truth stated in these two answers and are you as positive in every other statement and answer made by you here to-day as you are in the two last answers?

A. I am.

X Q. 76. When did you leave Mr. Sinzheimer's employ in the year 1871?

A. About the middle of August.

X Q. 77. Were you in his employ from the middle of August till January, 1872?

A. I think not.

X Q. 78. Are you not positive and certain, and can you not give a positive answer to this last question?

A. I cannot; I think I went back in January, '72.

X Q. 79. Do you know or have you any knowledge of what transpired in the business of Mr. Sinzheimer from about the middle of August to January, 1872?

A. I have not.

X Q. 80. Do you or do you not know whether Mr. Sinz-
222 heimer manufactured bound bosoms from the middle of August to January, 1872?

A. I do not.

X Q. 81. Do you or do you not know that in 1871 Mr. Sinzheimer made bosoms in two ways, as follows: "One way setting on the bias strip of goods on the edge of the bosom and turning it over, stitching it down again, making two rows of stitching through the binding and the bosom; the other way by binding the shirt front with the binder, making only one stitch through the binding and bosom?"

A. I didn't work on bosoms in '71; it was pocket handkerchiefs I made.

X Q. 82. Question repeated.

A. I do not.

By mutual consent Mr. Skilton is allowed to present to the witness Defendants' Exhibit A, which was not present when the witness was examined on the direct, having been accidentally left in the city of New York, but having now just been received by mail.

Direct examination by Mr. SKILTON:

Q. 83. I now place in your hands the shirt known as Defendants' Exhibit A in this case, and I ask you when and where you first saw shirt fronts made like that found on Defendants' Exhibit A, directing your attention particularly to the strip of material secured to the edge of the bosom and turned under the edge of the bosom where secured to the shirt, and I ask you to say, after a careful examination of the same, where and when you first saw a shirt front like this in the respects mentioned.

A. It was in '75 that I first remember them—on Arch street, at Mr. Sinzheimer's; but I don't think they had a double seam, the binding was put on with one seam.

223 Q. 84. The article you saw was simply the shirt front, was it not?

A. Yes, sir.

Cross-examination resumed by Mr. TIM:

X Q. 85. After you returned to Mr. Sinzheimer's, in January, 1872, can you state positively the different kinds of bosoms that were manufactured by him?

A. I cannot.

X Q. 86. Did you see after this time last referred to all the bosoms that were manufactured in and out of his place?

Question objected to as indefinite in enquiring about all the bosoms that were manufactured outside of Mr. Sinzheimer's factory.

A. I did not.

X Q. 87. Did you see all the bosoms after January, 1872, that were manufactured by Mr. Sinzheimer?

A. I did not.

X Q. 88. Then bosoms may have been manufactured by Mr. Sinz-

heimer in a certain way without your having seen them or knowing anything about them after January, 1872?

A. Yes.

X Q. 89. When you testified in your examination-in-chief that Mr. Sinzheimer manufactured mostly pleat-work between January, '72, and '75, will you please describe what you mean by pleat-work?

A. I mean one and two pleats.

X Q. 90. Do you mean in the centre of the bosom or between the centre and the edge of the bosom?

A. I never seen pleats in the centre; they were all between the centre and the edge.

X Q. 91. Then you mean the pleats between the centre of the bosom and the edge thereof?

224 A. Yes, sir.

X Q. 92. You will not undertake to say that shirt bosoms at the time referred to did not have centre pleats, do you?

A. I don't know what you mean by centre pleat. Explain what you mean by a centre pleat and I may be able to tell you.

X Q. 93. When were open-back shirts first introduced into the market?

Question objected to as incompetent on the cross-examination, on the ground that no foundation was laid therefor on the direct testimony of this witness.

A. I don't know.

X Q. 94. Do you know whether the shirt fronts or bosoms made by you at this time were for open-back shirts?

A. At what time?

X Q. 95. In 1872.

A. I don't remember making anything but open fronts in 1872, with one or two pleats.

X Q. 96. Will you please look at the model I now place in your hands and state if you ever made a shirt-front bosom with pleats in the centre, as shown in this model?

A. Yes, sir; but we didn't call them pleats at all; we called them plain combination bosoms.

The witness makes a model for the purpose of explaining what she designates as pleats, and the same is marked, for identification, Baker Exhibit Pleats, A. McL., N. P.

Witness continues:

There is a quarter of an inch plain edge that forms the centre, and those two form the pleats.

X Q. 97. In the exhibit I now show you, and which I have
225 termed Baker Exhibit Centre Pleat, do you undertake to say that the pleat shown therein is known by any other name in the shirt trade than by that of centre pleat?

A. We never called them centre pleats; we simply called them plain centres.

X Q. 98. Who do you mean by we?

A. All the operators in general.

X Q. 99. You mean the operators at this place at this time, do you not?

A. I don't know what name the firms gave them. I mean the operators ever since I know anything about shirt fronts.

X Q. 100. Do you say as a positive fact that the shirt bosoms manufactured by Mr. Sinzheimer after 1872, after they were completed, were ironed?

A. They were calendered, a process of ironing. I don't know whether they were all done that way.

X Q. 101. Would you undertake to say under oath as a positive fact that Mr. Sinzheimer, after 1872, did not manufacture bosoms by setting the bias strip of goods on the edge of the bosom, turning it over and stitching it down again, making two rows of stitching through the binding and the bosom?

A. I would not.

X Q. 102. Would you undertake to say that after January, 1872, he did not make shirt fronts by binding the shirt front with the binder, making only one stitch through the binding and the bosom?

A. I never saw them done with a binder.

X Q. 103. My question is, would you undertake to say that he did not make such a bosom after this time?

A. You said through the binder. I never saw them done with a binder.

X Q. 104. I don't ask you what you saw, but I ask you whether you would undertake to say as a positive fact that after January, 1872 Mr. Sinzheimer did not make shirt fronts by binding
226 the shirt front with the binder, making only one stitch through the binding and bosom.

A. I never saw a binder used.

X Q. 105. Question repeated.

A. I don't undertake to state anything that I didn't see.

X Q. 106. Question repeated.

A. I say again that I don't testify to anything I didn't see.

X Q. 107. Question repeated.

A. I won't testify to anything I didn't see.

X Q. 108. I ask you to give a direct yes or no to cross-question 104, which is now repeated to you.

Objection is made to this question that the witness has repeatedly answered it, and has particularly stated that she did not see any binder used.

A. I never saw any that was made with a binder. I never saw the binder used for that purpose.

X Q. 109. Could not such shirt bosoms have been made by him after January, 1872, in the manner last described without your knowledge and without you having seen the same?

A. Certainly.

X Q. 110. Would you undertake to say as a positive fact that prior to 1872 Mr. Sinzheimer did not make shirt bosoms like the one in Defendants' Exhibit A?

A. I would not. I didn't work at bosoms for Mr. Sinzheimer before 1872.

X Q. 111. Would you undertake to say that after January, 1872, he never made any shirt bosoms like the one contained in Defendants' Exhibit A?

Objected to as indefinite.

A. I would not.

227 X Q. 112. You were discharged, were you not, by the present firm with which Mr. Sinzheimer is connected?

Question objected to as incompetent, irrelevant, and otherwise improper.

A. That has nothing to do with the shirt that was made years ago.

X Q. 113. Question repeated.

A. That has nothing to do with that shirt. Thanks to one of his operators, Mrs. Lacy, they would not have got me here to-day.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 114. Were the machines and tables and work of the other operators in Mr. Sinzheimer's factory open to your observation from day to day between the first of January, 1872, and the first of January, 1876?

A. Yes, sir.

R. D. Q. 115. Between those dates did you ever see a shirt front in Mr. Sinzheimer's factory made with a strip on the edge of the front or bosom and in any way attached thereto, as in Defendants' Exhibit A?

A. I did.

R. D. Q. 116. Prior to January, 1875, did you?

A. I did not.

R. D. Q. 117. How many did you see between January, 1875, and January, 1876—that is to say, how many of the kind seen in 1875 were there made there?

A. Very few.

R. D. Q. 118. In the exhibit you have made, which has been marked Baker's Exhibit Pleats, what kind of a bosom and what part of it does the model represent?

A. The right side of an open front two pleat.

228 R. D. Q. 119. Since 1876 down to this time have you seen shirt fronts made in the establishment where Mr. Sinzheimer is engaged in which there is a strip of material secured to and over the outer edge of the bosom?

A. No, sir; not over the outer edge; it comes even with the edge.

R. D. Q. 120. Are the raw edges of this bosom covered by the strip?

A. Yes; they are turned on the edge, and the edges are turned even and stitched on the edge to form a cord.

R. D. Q. 121. I place a shirt called "The Dauntless" in your hands and ask you if that shirt is made in the manner described, and if it is one of the manufacture of the firm with which Mr. Sinzheimer is connected.

A. Yes, sir; they are making shirts of that name.

R. D. Q. 122. And like this now in your hands?

A. Yes, sir.

Complainants' counsel offers the shirt marked "The Dauntless" in evidence on behalf of the complainants, and the same is marked Complainants' Exhibit The Dauntless, Sinzheimer, A. Mc. L., N. P.

R. D. Q. 123. With what firm is Mr. Sinzheimer now connected and what are his relations with that firm or in what capacity is he connected with that firm?

Objected to unless the witness states from her own knowledge and not from hearsay or what has been told her by any one except Mr. Sinzheimer or within his hearing.

A. He is with the firm of Hagedorn & Newman, and I see him there as manager of the establishment. On any little bills
229 that come in on orders and on small orders I see his name put as manager. On any small orders of two or three or a dozen shirts he is styled as manager.

R. D. Q. 124. Are Hagedorn & Newman the successors of Sinzheimer or did they continue Sinzheimer's business in any way?

Objected to as leading, and also as immaterial, irrelevant, and incompetent.

A. I understood they took this business in 1884, after the failure of Sinzheimer & Deutsch.

This answer is objected to on the ground that it is hearsay evidence, and the usual notice is now given.

R. D. Q. 125. Where did Hagedorn & Newman get the machinery they are now using—from whom? I mean the sewing-machines and their general machinery.

A. The machinery was all got new in 1885, December, after the fire.

R. D. Q. 126. Where did Hagedorn & Newman get the machinery they had before the fire—from whom?

A. From Sinzheimer & Deutsch, I suppose. It was the same machinery Sinzheimer & Deutsch had before their failure.

R. D. Q. 127. How long after Sinzheimer & Deutsch failed did Hagedorn & Newman take the machinery?

A. They failed August the thirteenth, and we commenced work September the 1st, 1884.

R. D. Q. 128. What became of the hands or employees, rather, of Sinzheimer & Deutsch when Hagedorn & Newman commenced running the machinery?

A. They continued with the new firm when they started.

230 R. D. Q. 129. Do Hagedorn & Newman now make any other style of shirt fronts in which a separate strip is secured to or over the outer edge of the bosom except "The Dauntless?"

A. We make a great many of that style of bosoms, but what name they give them I don't know. We don't see the name on them. They generally give them to us in numbers—65's or 51's; some number or other.

R. D. Q. 130. In the answers you have made on cross-examination do you intend or have you intended to vary the statements made on your direct examination?

A. Not intentionally.

R. D. Q. 131. Have you intended to vary the statement made on your direct in the answers you have made on your cross-examination fixing the date when Mr. Sinzheimer first made bosoms in the style shown in Complainants' Exhibit Baker's Model?

A. I do not. I have no knowledge of any being made before 1875.

Mr. Tim having, by consent, reserved the right to make a general objection from R. D. Q. 125 to the last question, hereby objects to all the foregoing testimony embodied between these two questions upon the ground that it is immaterial, irrelevant, and incompetent and the fore part of it is hearsay.

Redirect examination closed.

Recross-examination by Mr. Tim:

R. X Q. 132. Can you state what bosoms were made by the other operators after 1872 at Sinzheimer's, when you were absent from the place?

A. I cannot.

231 R. X Q. 133. Then between January, 1872, and 1875 Mr. Sinzheimer could have manufactured bosoms of a certain kind without your knowledge and without you having seen the same?

A. Of course he could.

R. X Q. 134. Then if Mr. Sinzheimer testified in this case that he did, during the period last mentioned, make bound bosoms like the one exhibited in Defendants' Exhibit A, you will not undertake to say that he did not, will you?

A. I have no knowledge of those bosoms prior to 1875.

R. X Q. 135. Question repeated.

A. No, sir.

R. X Q. 136. And if he testified that he made them prior to 1872 you would not undertake to say that he did not, will you?

A. No, sir; I didn't make bosoms for him prior to that time.

R. X Q. 137. Would you undertake to say that from the years 1871 to 1875 he did not at any time between those years make bound bosoms like the model made by yourself and termed Complainants' Exhibit Baker's Model?

A. I will not.

Recross-examination closed.

Re-redirect examination by Mr. SKILTON:

R. R. D. Q. 138. And if he had made such bosoms in his factory where you worked had you or had you not full opportunity of knowing it?

A. Yes, sir.

Re-redirect examination closed.

Re-recross-examination by Mr. TIM:

R. R. X Q. 139. Of what did the full opportunity you have just testified to consist?

A. One operator generally knowing what the other worked at.

232 R. R. X Q. 140. Do you mean to say that you know every bosom that was made from 1872 to 1875 by every operator in Mr. Sinzheimer's employ at that time?

A. I do not; but that was a work that every one disliked, that every one knew what was going. It was a work that was disliked, and when it was agoing they all knew it.

R. R. X Q. 141. Did every operator in Mr. Sinzheimer's employ tell you the different kind of bosoms that he or she was making from January, 1872, to 1875?

A. Not at all. When we had easy work it was not; when we had hard work it was the talk of the room.

R. R. X Q. 142. Then do you mean to say that if one of the operators was put to work at a bound bosom like in Defendants' Exhibit A that you would know it?

A. I would; but I wouldn't know it through the operator; but I would know it through the folder.

R. R. X Q. 143. Did I understand you to say that after the bosoms were completed they would be sent from Mr. Sinzheimer's place to the party who ordered them?

A. You didn't understand anything of the kind, for I didn't know whether he kept them in stock or sent them out.

R. R. X Q. 144. But it is a fact, is it not, that an operator, between January, 1872, and 1875, could have made bosoms like in Defendants' Exhibit A and you not know it?

A. Certainly; they could have been made out of the building.

R. R. X Q. 145. Could it not have been so done in Mr. Sinzheimer's factory without your knowledge?

A. Hardly—that style.

R. R. X Q. 146. Would you say positively it could not?

233 A. I would not.

Examination of this witness closed.

C. L. BAKER.

Sworn to before me this 5th day of October, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

CHARLES H. SNYDER, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Charles H. Snyder; 33 years of age. I reside at 417 Brown street, Philadelphia. I am a police officer.

Q. 2. Do you know Jacob Loeber, now in the employ of Hagedorn & Newman, shirt manufacturers?

A. I know Jacob Loeber, a shirt-maker, but I do not know where he is employed.

Q. 3. Do you know whether the Jacob Loeber you know has lately testified in this case?

A. He told me he had not.

Q. 4. Where does this Jacob Loeber now live?

A. 716 New Market street.

Q. 5. Where was his previous place of residence?

A. Fourth street below Poplar; and previous to that he lived at 813 Lawrence street. These addresses are all in Philadelphia.

No cross-examination.

CHARLES H. SNYDER.

Sworn and subscribed before me this 5th day of October, 1886.

ARTHUR McLEARN,
[SEAL.] *Notary Public.*

234 ANNA E. BACH, a witness recalled on behalf of complainants, being duly sworn, deposes and says:

Q. 1. Do you know Edward Wallerstein, now of the city of Troy, a shirt manufacturer there, and formerly of the city of Philadelphia, and at that time connected with the manufacture or sale of shirts?

A. I do.

Q. 2. What was his business when you first knew him?

A. A shirt manufacturer.

Q. 3. Where was his place of business?

A. On Market street between Third and Fourth.

Q. 4. In what other capacity or place of business did you know of Mr. Wallerstein's being connected?

A. I next knew of him as being salesman for Rosenbach & Company.

Q. 5. In what next relation or connection with the shirt business did you know Mr. Wallerstein?

A. He commenced business again on Market with a man named Kohn. I think it was spelled K-o-h-n.

Q. 6. Where did you next know of Mr. Wallerstein in the shirt business?

A. While carrying on that business he came to Norristown to have shirts manufactured there by me.

Q. 7. In what capacity were you acting at this last-mentioned time and where?

A. I was forelady in a factory there.

Q. 8. By whom was that factory started there?

A. It was started there to manufacture Rosenbach & Company's goods, and when there was not enough to keep the factory going he would manufacture for other firms. At the time we manufactured for Mr. Wallerstein Mr. Wright was then owner of it. I remained after the other firm had given it up.

235 Q. 9. What Rosenbach do you refer to in your last answer?

A. It was Rosenbach, Steppacher & Company, 28 North Third. That was where they kept when the factory was started at Norristown. They were the same parties known under the name of M. Rosenbach & Company.

Q. 10. For what other parties were goods manufactured in the Norristown establishment in which you were forelady, if any?

A. Oppenheimer & Company or Sons; I don't know which. Mr. Bloch—Joseph Bloch—that was the name of one of them. They were the successors of Thalheimer & Hirsch. There were others, but I forget their names at present.

Mr. Tim objects to all the testimony thus far given by this witness as being irrelevant, immaterial, incompetent, and as not in rebuttal. And he hereby gives the usual notice.

Q. 11. During the time when you were forelady in the Norristown factory what shirts, if any, were manufactured there and for whom in which a binding strip was used on the outer edge of the bosom?

A. We never had any bindings put on for any of those firms as exhibited in that shirt.

Q. 12. To what do you refer by the words "that shirt" in your last answer?

A. I refer to Defendants' Exhibit A.

Q. 13. Is there more than one person by the name of Bloch in the shirt business and in the same connection in Philadelphia? I mean of those you have mentioned.

A. None but the two brothers that I know. To the best of my knowledge, one is Jacob Bloch, generally known as Mr. Bloch, and the other is familiarly known as Joe.

236 Q. 14. What sort of bosoms were those that were used in making shirts for the Blochs?

A. Plain shields stitched down on the edge; sometimes one row and sometimes two.

Q. 15. While M. Rosenbach & Company were running the factory were the shirts manufactured there made entirely for that firm?

A. No, sir.

Q. 16. How long before M. Rosenbach & Company failed was the manufacture for other parties commenced?

A. About three or four years. We manufactured for Bloch the first month he went into business; the first month or thereabouts.

Q. 17. Did Bloch furnish his own material; and, if so, in what shape?

A. He did. The bosoms were made; the shirt was cut out to receive the bosom, and it was our business to complete the shirt and

insert the bosom or attach it to the shirt, and they were sent from Norristown ready for the laundry.

Q. 18. Did any of these shirts from the Bloch concern have strips or binding on the edge of the shirt as in Exhibit A or some other form?

A. No, sir; no strips was used of any kind in the manufacture of his shirts by me.

Adjourned to Wednesday, October 6th, 1886, at 10 o'clock a. m.

PHILADELPHIA, *October 6th*, 1886.

Met pursuant to adjournment.

Present: Mr. Skilton and Mr. Tim.

Examination of witness, ANNA E. BACH, continued:

237 Q. 19. Whose business was it in the Norristown factory to slope the necks of the bosoms—that is, to prepare them for the neck band?

A. It was mine; I done all the sloping.

Q. 20. What opportunity did that give you to see how the fronts were made and how they were to be attached to the shirt body?

A. The sloping comes in front of the bosom here, and the front part of the bosom I sloped. I couldn't avoid seeing everything about the bosom—how it was made and how it was to be sewed onto the shirt body.

Direct examination closed.

Cross-examination by Mr. TIM:

X Q. 21. You have testified in this case on the 9th day of September, 1886. Is that not so?

A. Yes, sir.

X Q. 22. Did you at that day have knowledge of all the facts that you testified to yesterday and to-day?

Question objected to as incompetent, immaterial, and irrelevant.

A. Yes, sir.

X Q. 23. Since the time you gave your testimony hereinbefore referred to with whom have you conversed about this case?

A. I have casually conversed with several. I have conversed with Mr. Skilton. I conversed with Mr. Lindsey about it sometimes in speaking of the shirt trade in general.

X Q. 24. Do you know Charles H. Snyder?

A. No, sir.

X Q. 25. Where is your present residence?

A. 323 South Fifth.

X Q. 26. Have you received any reward or promise to testify in this case?

238 Question objected to as incompetent and irrelevant, and, further, Mr. Skilton states for the information of counsel that this witness has been repeatedly summoned to attend upon this

examination, has attended from day to day, waiting examination, while others were being examined, and has been paid by me regular witness fees for attendance, and, having acquaintances among the employees of M. Rosenbach & Company, has been furnished with car fare for the purpose of ascertaining the residences of any of the old operators at M. Rosenbach & Company's; that beyond these sums this witness has been paid no money and promised none, and in the first instance when car fares were tendered her to be used in her necessary movements in attendance on this examination she refused to receive them, and finally did receive them only when such receipt was insisted upon by me, and this in the presence of two witnesses beside myself.

A. None beyond the witness fees, nor have not been promised any.

X Q. 27. When was it that you were first connected with the factory in Norristown?

A. I think it was in '74.

X Q. 28. And how long did your connection with that factory last?

A. Two years after the Centennial, which, I think, brought it to about '78.

X Q. 29. At this time—that is, from 1874 to 1878—where were you living?

A. In Norristown.

X Q. 30. Do you know what county Norristown is in?

A. Yes, sir; it is in Montgomery county.

239 X Q. 31. Were you continuously living and working in Norristown between those years?

A. Yes, sir.

X Q. 32. Who was the proprietor of this factory in Norristown where you were engaged? I have reference to the business.

A. M. Rosenbach & Company. Mr. Brooker was superintendent. The factory was started for M. Rosenbach & Company's work.

X Q. 33. Do I understand you by this last answer to mean that M. Rosenbach & Company owned whatever belonged to that business conducted in Norristown and that they were the proprietors and owners of that business?

A. The factory was carried on under the name of the Webster Shirt Manufactory. There was no name up. The Webster Shirt Manufactory was the name of the shirt that M. Rosenbach & Company were making at that time.

X Q. 34. Question repeated.

A. I really do not know that they owned all the machinery there; I never made inquiries. Their goods were manufactured there, but I do not know if they owned the machinery. A great many girls owned their own machines.

X Q. 35. Are you prepared to say that they were the proprietors and owners of that business?

A. Their goods were manufactured there, and the money came to pay the hands there. Generally speaking, Mr. Brooker brought the

money, sometimes Mr. Steppacher, sometimes some of the bookkeepers, and sometimes it was sent by express to me to pay them.

X Q. 36. Question repeated.

A. I have given you all the information I know, sir.

X Q. 37. Can you not give me a decided yes or no to X Q. 35, which is now repeated to you for such an answer?

A. I cannot tell you how much of the machinery they owned.

240 X Q. 38. I do not ask you anything as to machinery, but I simply ask you whether you can state positively that M. Rosenbach & Company, its predecessors or successors, were the proprietors and owners of the business conducted in Norristown and which you have stated was known as the Webster Shirt Manufactory.

A. I went to Norristown to manufacture their goods and who was the proprietor of the factory or the machinery I do not know; manufactured their goods all the time I was there.

X Q. 39. The cash that was sent there was to pay the hands for the making of their shirts. Is that so?

A. Yes, sir.

X Q. 40. Do you know Jacob Bloch?

A. Yes, sir; he was the head of the firm, so I understood. I saw the gentleman in the building as we manufactured some goods for him.

X Q. 41. Did you not state yesterday that you knew Joseph Bloch, commonly known as Joe, and you knew the other Bloch simply as Mr. Bloch, but did not know his first name?

A. I think I stated that I believed his name was Jacob.

X Q. 42. Do you know this as a fact and are you prepared to state here that his name is Jacob?

A. I would not say positively, sir, but that is my impression, that his name is Jacob.

X Q. 43. Would you undertake to say as a positive fact that there is not now and was not at the time you were engaged in the Norristown factory more than one Jacob Bloch in the shirt business?

A. I never heard of any.

X Q. 44. Question repeated.

A. No; I don't know of any but the one person.

241 X Q. 45. Do you or do you not know whether all the goods, including bosoms and completed shirts, were made exclusively in this Norristown factory for the firm of M. Rosenbach & Company?

A. The bosoms were not made in Norristown. The shirts were cut and the bosoms put in each bundle and sent to me to be made up.

X Q. 46. Do you or do you not know whether all the shirts manufactured by M. Rosenbach & Company were made up at this Norristown factory while you were engaged there?

A. I didn't manufacture any of the custom orders, such as a dozen or a half dozen. Those orders were made in town.

X Q. 47. Outside of this custom trade or work are you prepared

to say under oath that all the shirts manufactured by this firm were made at the Norristown factory while you were engaged there?

A. No, sir; they made jumpers, and they made flannel shirts, hickory shirts, and some of the commoner grades—that is, calico—in Philadelphia. That is my understanding, and I didn't know of their sending any of their stock of white goods anywhere else.

X Q. 48. Then you will not state as a positive fact that all their stock white shirts were made at this Norristown factory while you were engaged there?

A. I understood they all were. I had no knowledge of anything else.

X Q. 49. Question repeated.

A. I couldn't swear that they were made at any other place because I didn't know.

X Q. 50. What kind of shirts did you make up for Mr. Bloch at this Norristown factory?

A. They were calico and white shirts. Both fine and common grades we manufactured for him.

X Q. 51. When did you commence to make shirts for this Mr. Bloch and when did you cease making them?

A. We commenced shortly after Mr. Bloch commenced
242 business at Norristown. I could not give you the year. We manufactured for him about a year or eighteen months.

X Q. 52. Can't you possibly fix the year when you made shirts for Bloch as near as possible?

A. I think that it was about '74, to the best of my knowledge.

X Q. 53. Do you know whether you made during this time, for this Mr. Bloch, all the shirts that he manufactured—that is, of the grade you then made up for him?

A. I did not. I did not make them all up. He had hands working outside, in the city of Philadelphia.

X Q. 54. Did you make up all the shirts for this Mr. Bloch that he manufactured, during the time that you made up these shirts for him in Norristown?

A. No, sir; I didn't make them all up. He had hands working in town, in the city of Philadelphia.

X Q. 55. You are not willing and prepared to say, under oath, that Jacob Bloch did not manufacture and sell a shirt like Defendants' Exhibit A prior to the year 1874?

A. I never manufactured anything like this, and I was on terms of visiting with the head cutter and foreman. He was head cutter and foreman, both—Mr. Beebe, of Bloch; he went to work for him when he first started. Had there been anything like this I would positively have heard of it.

X Q. 56. Question repeated.

A. I can't answer it any other way, sir.

X Q. 57. From 1874 to 1878 you worked continuously in this Norristown factory, did you not?

A. Yes, sir; I was never absent two days in succession. Half a day was the most I would be absent during that time.

X Q. 58. Did you know during this time last referred to what was being done at Mr. Bloch's place of business or factory?

A. No, sir; I wasn't in his factory all the time, but I con-
243 versed every week or so about what kind of goods were being made. In shirt business it will be a general topic of conversation if there is any new styles.

X Q. 59. During these four years how often were you in Mr. Bloch's place of business or factory?

A. I couldn't say how often I was; I visited more frequently at the foreman's home.

X Q. 60. About how often—at the factory?

A. I couldn't say.

X Q. 61. Can you give an estimate?

A. No, sir; it would be very hard for me to do; I could not.

X Q. 62. Would you say, as a positive fact, that prior to 1875 Mr. Bloch did not manufacture or sell, without your knowledge, a shirt or shirts like Defendants' Exhibit A?

A. I would not.

X Q. 63. Then is it not a fact that he could have manufactured and sold such shirts prior to 1875?

A. I think if he had manufactured I would positively have known it.

X Q. 64. Question repeated.

A. I can only repeat that I would positively have known it under the circumstances.

X Q. 65. Question repeated.

A. Well, I said that I thought that he could not under the circumstances.

X Q. 66. Are you prepared to say under oath that having lived in Norristown from 1874 to 1878, and having devoted yourself almost daily to your duties at that Norristown factory, and not being in and about the business or factory of Mr. Bloch, that he could not have made and sold shirts like Defendants' Exhibit A without your knowledge?

A. I came to Philadelphia every Saturday night, remained until the following Monday morning, and generally visited the
244 foreman's home or house and conversed about the style of shirts in both factories.

X Q. 67. Question repeated.

A. I am not prepared to swear that he could or could not.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 68. From whom was the money received that was sent to you to pay the hands in the Norristown factory, as stated in your cross-examination?

A. Mr. Brooker always brought the money to pay for the work done at all of the places. Mr. Brooker, he was the business manager for M. Rosenbach & Company for the Norristown factory.

R. D. Q. 69. From whom did you receive the instructions about

the work in the Norristown factory—that is, who gave you your orders about the work?

A. When a box of goods was sent to be manufactured there was an envelope sent with all the directions, who they were from, and how they were to be manufactured.

R. D. Q. 70. From whom did that envelope and its contents come, and who wrote the letters?

A. Whatever firm the goods were for there would be enclosed an envelope with the directions how they were to be manufactured and who they were from. If there was any new style I would receive a telegram to come to town for instructions.

R. D. Q. 71. Who sent you such telegram, who gave you the instructions, and where were they given?

A. Sometimes the proprietors, sometimes their foreman; at their place of business. Oppenheimer generally gave me their
245 instructions themselves—Mr. Oppenheimer himself; at Bloch's, the foreman generally.

R. D. Q. 72. Who paid you your wages?

A. The money was always sent up together for the hands and myself. I sent down on Friday night for what money I wanted, including my own wages.

R. D. Q. 73. To whom did you send, as stated in your last answer?

A. All correspondence was through Mr. Brooker for all parties.

Recess until 2.45 p. m.

Redirect examination of Mrs. BACH resumed:

R. D. Q. 74. Who hired you to work in the Norristown factory?

A. Mr. Brooker was the one that first spoke to me about going to take charge.

R. D. Q. 75. On whose behalf did he say he acted?

A. Mr. Rosenbach's or M. Rosenbach & Company.

R. D. Q. 76. Who had the factory during the last year while you were at Norristown?

A. The last four years Mr. Wright, the owner of the building.

R. D. Q. 77. If you had any other reason for your statement made in answer to X Q. 32, that M. Rosenbach & Company were the proprietors of the factory, except the statement of Mr. Brooker, please mention it.

A. None further. It was generally understood by all parties that they were the proprietors of the place. I never heard anything to the contrary.

R. D. Q. 78. Did Mr. Wright own the building the whole of the time you were there?

A. Yes, sir.

R. D. Q. 79. In whose employ had Mr. Brooker been prior to his engaging you to go to Norristown?

246 A. M. Rosenbach was the first person he ever went with. He was there from a small boy.

R. D. Q. 80. In answer to X Q. 35 you mention "book-keepers"

as sometimes bringing money to pay the hands. Whose book-keepers brought the money?

A. M. Rosenbach & Company's.

R. D. Q. 81. Did the Jacob Bloch or the Joseph Bloch mentioned in your testimony start their business themselves or did they succeed some other concern; and, if yea, what concern?

A. Mr. Bloch was with the firm of Thalheimer & Hirsch, and when they gave up business he got their trade.

R. D. Q. 82. Prior to your first examination in this case, on the 9th of September last, or before the close of that examination had you said anything to Mr. Skilton or had Mr. Skilton put to you any question or had any representative of Mr. Skilton put to you any question about Mr. Bloch or Mr. Wallerstein?

A. No, sir.

R. D. Q. 83. So far as you know did Mr. Skilton, prior to the close of that examination, know that you knew anything about Mr. Bloch's business?

Objected to as immaterial, irrelevant, and incompetent, and that it is impossible for this witness to state what knowledge Mr. Skilton had on this subject.

A. He did not.

R. D. Q. 84. When did he first learn of it?

Objected to on the above grounds.

A. This week.

Redirect examination closed.

247 Recross-examination by Mr. TIM:

R. X Q. 85. What you have here stated in reference to Mr. Bloch's business and procuring the customers of another firm is testimony based upon what has been told to you outside of the Messrs. Blochs. Is that not so?

A. Yes, sir; but it was generally spoken of by all parties. Messrs. Blochs never told me.

R. X Q. 86. And the moneys that were sent, as testified by you, to the Norristown factory—your testimony in relation to this matter is also based upon what was told to you outside of the firm of M. Rosenbach & Company?

A. The money came all through the same source, by the employees of M. Rosenbach & Company.

R. X Q. 87. But none of the firm of M. Rosenbach & Company ever told you that they had sent the money. Is that so?

A. That is so.

R. X Q. 88. Your dealings with the firm of M. Rosenbach & Company was through the employees, was it not?

A. Yes, sir. I was an employee of M. Rosenbach & Company, only the other employees were above me; that is all. I only took charge of the manufacturing.

Recross-examination closed.

ANNA E. BACH.

Sworn to before me on this 6th day of October, 1886.

ARCHER McLEARN,
[SEAL.] *Notary Public.*

Mr. Tim here gives notice that at the proper time and place
248 he will move to strike out from the record that part of the testimony of Anna E. Bach in relation to the business of Mr. Bloch and the orders received at the Norristown factory from him or his firm, and also her testimony in relation to M. Rosenbach & Company, upon the ground that the same is hearsay evidence and not admissible.

Mr. Skilton offers in evidence on behalf of complainants the model made by the witness, Miss Baker, and the same is marked Complainants' Exhibit Baker's Model, A. McL., N. P.; also the model showing pleats made by Miss Baker, and marked for identification, and the same is marked Complainants' Exhibit Baker Exhibit Pleats, A. McL., N. P.

The last-mentioned exhibit has an ink line drawn across its face by consent of both parties, marked "*a*" at each end of the line, to indicate the continuous and parallel planes in which the exhibit is to be viewed, the line "*a a*" being drawn across the flat front of the part — bosom shown in the exhibit. In addition, both these exhibits bear the date showing when they were made by the witness.

DAVID W. J. HUTTON, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. David W. J. Hutton; 572 Federal street, Camden, New Jersey; occupation, shirt and overall manufacturer; age, 55 years.

249 Q. 2. Are you the Mr. Hutton, formerly of the firm of Walter & Hutton, of the city of Philadelphia, formerly engaged in business of manufacturing and selling shirts?

A. Yes, sir; our number was 227 Chestnut street.

Q. 3. Between what years was the firm of Walter & Hutton engaged in that business?

A. From '65–'66—that is, the latter part of '65—'65–'66 to the latter part of 1877.

Q. 4. I place in your hands a shirt known in this case as Defendants' Exhibit A, and I call your attention particularly to the manner in which the shirt front or bosom of this shirt is made and secured to the body of the shirt, and particularly with reference to the strip of material secured to the outer edge of the bosom, and I ask you whether the firm of Walter & Hutton ever manufactured or sold, or had manufactured for them and sold, a shirt having a bosom or front provided with such a strip. Please examine the exhibit carefully.

A. To the best of my knowledge and belief, we never did.

Q. 5. Prior to the dissolution of the firm of Walter & Hutton had you ever seen the shirt front or a shirt with a front made in the manner referred to in the last question and shown in Defendants' Exhibit A?

A. I don't remember of having seen anything of the kind.

Direct examination closed.

Cross-examination by Mr. TIM:

X Q. 6. When did the firm of Walter & Hutton dissolve?

A. In '77, December.

X Q. 7. And how long were they in existence previous to the dissolution?

A. They were in existence eleven years.

250 X Q. 8. What were your duties in the firm?

A. Manufacturing and buying. My duties were general duties—manufacturing, buying, and selling. I was the practical man in all branches of shirt manufacture. My duties were in and about the place, except when I would go out on the road occasionally. I went to New York to buy goods and attended to their cutting and manufacture afterward.

X Q. 9. Did you have work done outside of your factory?

A. Yes, sir.

X Q. 10. Are you able at this date to describe all the different kinds and shapes of shirts that were manufactured by your firm eighteen years ago?

A. No, sir.

X Q. 11. Can you describe at this date all the different styles and kinds of shirts that were manufactured by your firm during its existence?

A. No, sir.

X Q. 12. By your answer to question 5 do you wish to be understood to say that no shirt like Defendants' Exhibit A was manufactured or placed in the market?

Question objected to as immaterial and irrelevant, the answer of the question referred to—question 5—being its own best interpretation.

A. I can only answer by stating, as I did before, that I don't remember of seeing anything of the kind.

X Q. 13. Question repeated.

A. No; I don't wish to say that.

X Q. 14. Do you remember at this date all the different styles of shirts and bosoms which you have seen in and out of your place of business during the existence of the firm of Walter & Hutton?

251 A. No.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 15. While the firm of Walton & Hutton were engaged in business what opportunities did you have and what was your practice and what also was the universal practice among shirt manufacturers in Philadelphia as to watching, taking note of, and observ-

ing the various styles of gentlemen's laundered shirts made and sold in the city of Philadelphia?

Objected to on the ground that the question is too leading and is a proper subject-matter for the direct examination, and that the witness has not as yet stated that he was acquainted with any practice of the shirt trade.

A. I was not acquainted with the practice of other shirt manufacturers in regard to that matter; that, as far as our own manufacture is concerned, we endeavored to get all new styles and improvements, and that I was particular in examining all work that passed through our factory.

R. D. Q. 16. To what extent was you away from the factory and business of the firm in the city of Philadelphia during the time of its existence?

A. I can answer only by stating that only when I was out of town buying goods and a few times when I was out of town selling goods.

R. D. Q. 17. What was your general practice or habit when away purchasing goods—that is, how many days were you ordinarily absent?

A. Sometimes a day or two at a time.

R. D. Q. 18. Were your opportunities such that if there had been such a shirt front as that shown in Defendants' Exhibit A exposed for sale in the city of Philadelphia that you would have been
252 likely to have seen them or not during the existence of the firm of Walter & Hutton?

A. It would have been altogether likely that I would have seen the shirt front had it passed through our factory. I also think that I would have seen it if it had been exposed for sale by other manufacturers in Philadelphia.

Redirect examination closed.

Recross-examination by Mr. TIM:

R. X Q. 19. Would you understand the construction of a shirt made by a firm outside of your own which was presented to you or exposed to your view without taking the parts thereof apart?

A. Not a shirt of that kind.

R. X Q. 20. What do you mean by that kind?

A. The manner in which the bosom is sewn on the shirt, Defendants' Exhibit A, without cutting it apart.

R. X Q. 21. Is it not possible that you may have seen exposed to view and for sale in the different styles that have come across your notice during the existence of your late firm a shirt like Defendants' Exhibit A without having the same presented to you for inspection?

A. Yes, sir; it is possible.

Recross-examination closed.

Re-redirect examination by Mr. SKILTON:

R. R. D. Q. 22. Is it probable that a shirt with a bosom provided with a strip on the edge like Exhibit A could have been introduced into the market in the city of Philadelphia during the existence of your firm without the matter having been called by some of your employees or in some other way to your attention?

A. I think in all probability the matter would have been called to my attention.

253 R. R. D. Q. 23. Would it or would it not be an easy matter to ascertain the construction of a shirt made like Defendants' Exhibit A by examination after cutting a few threads in the seam on the edge of the bosom securing the bosom to the shirt?

A. It would be a very easy matter; there would be no trouble in ascertaining where the seams were and how it was made.

D. W. J. HUTTON.

By consent, jurat waived.

CASSEL LAND, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Cassel Land; age, 51; 612 Diamond street; shirt-front manufacturer.

Q. 2. How long have you been engaged in this business?

A. I have been engaged in the shirt-front business about 20 years, in the city of Philadelphia all the time.

Q. 3. What opportunity have you had of knowing what styles of shirt fronts were manufactured in the city of Philadelphia during your twenty years in the business by others?

A. Well, I cannot say anything more than, being in the business, I watched the styles. I can't make any further answer.

Q. 4. Have you had opportunities of noticing how the shirt fronts of the different manufacturers in the city of Philadelphia were made and shaped during your twenty years of business?

A. I have seen shirt fronts of different parties manufactured.

Q. 5. Please examine the shirt front or bosom found on the
254 shirt known in this case as Defendants' Exhibit A, and state whether prior to 1876 you ever saw or knew of a shirt front like it in the respect of it having a strip of material secured to the edge of the front or bosom and turned over the edge, as in Exhibit A.

A. No, sir; I can't say that I did ever see a shirt front set on a shirt in this way.

Q. 6. What was the style of shirt fronts made in Philadelphia between 1865 and 1875?

A. Mostly pleated bosoms, sir.

Q. 7. How many pleats?

A. Well, from one to twenty or more.

Q. 8. And what shape?

A. Generally square bosom.

Q. 9. And how were the bosoms left on the edge as made by shirt-front makers?

A. The edge was left raw; only one ply.

Q. 10. When were additional plies introduced?

A. The additional plies were introduced, as near as I can remember, about 1870 or 1871—somewhere about that.

Q. 11. How were the edges left in these cases—that is, where there was more than one ply?

A. Well, when they were made with two plies they were generally raw edge too.

Q. 12. How many shirt-front makers were there in Philadelphia between '70 and '75?

A. You ask me a question that I can hardly answer. I think there was a firm by the name of Walter & Hutton who manufactured shirt fronts at that time; they are out of business now; they are pretty nearly all out of business now; a person by the name of John H. Stukey; Mr. Wray—I don't know what his first name was; Rosenthal; a party by the name of Webb—he is dead; a party by the name of Clayton; Witherhole, Sawyer & Shriver, on Market street near Sixth. Then there were several others besides who I can't just bring into recollection.

255 Q. 13. Please mention some of the shirt manufacturers of Philadelphia of the same years—'70 to '75.

A. Well, there was Walter & Hutton; they were shirt manufacturers at that time; they manufactured shirts and fronts both at that time. There was Wallerstein, Weil & Company—I think they were in business at that time—and Rosenbach & Company.

Q. 14. Please recall the different styles of shirt fronts and shirts manufactured by the different concerns mentioned, and state whether or not any of them to your knowledge during those years manufactured or sold shirt fronts or shirts having a front like Defendants' Exhibit A in the respects previously inquired about.

The latter part of this question is objected to as leading.

A. I can't say that I ever saw a shirt front set in a shirt like this at about that time.

Direct examination closed.

Cross-examination by Mr. TIM:

X Q. 15. Where is your present place of business?

A. 235 Market street.

X Q. 16. How much of the premises do you occupy?

A. Second and part of the third floor.

X Q. 17. How long have you been at this place?

A. Going on four years.

X Q. 18. And where were you located previously to that?

A. 229 Market street.

X Q. 19. How long were you located there?

A. I think it was in the neighborhood of four years.

X Q. 20. And where were you located previous to that?

256 A. 132 Market street.

X Q. 21. And how long were you located there?

A. Between three and four years.

X Q. 22. What years were they?

A. We started at 132 Market street in 1875.

X Q. 23. And where were you before that?

A. I was a salesman before that for different parties.

X Q. 24. Were you at any time previous to 1875 engaged as a manufacturer of shirts yourself on your own account?

A. No, sir.

X Q. 25. Previous to 1875 over what circuit did you travel as salesman?

A. In Philadelphia only.

X Q. 26. Were your duties previous to 1875 other than those of a salesman?

A. No, sir.

X Q. 27. If, then, a shirt-house had manufactured a shirt like Defendants' Exhibit A, in the city of New York, for example, could that house not have made and sold such a shirt containing all the component parts of the Defendants' Exhibit A prior to the year 1875?

A. I suppose they might have, of course.

X Q. 28. And is it not possible that prior to 1875 shirts like Defendants' Exhibit A were made and sold in different parts of the United States?

Question objected to as irrelevant and immaterial.

A. Well, I can't say anything about how shirts were made outside of Philadelphia.

X Q. 29. Question repeated.

A. I don't know what answer I can give to that question.

X Q. 30. Do you understand the question?

A. I can't say that I do distinctly.

X Q. 31. I want you to tell me whether it was not possible
257 for shirts like Defendants' Exhibit A to have been made and sold by different shirt-makers in different parts of the United States prior to 1875?

A. There might have been, but I never saw any.

X Q. 32. The bosom and shirt manufacturers that you have given, do you want to be understood as saying that they were the only number manufacturing these articles?

A. No, sir; I do not.

X Q. 33. There may have been in the city of Philadelphia prior to 1875 other manufacturers whose names were unknown to you. Is that not so?

A. Yes, sir.

X Q. 34. Then it is not possible that such manufacturers could have made in the city of Philadelphia a bosom or a shirt like Defendants' Exhibit A prior to 1875?

A. There might have been.

X Q. 35. And is it not possible that such shirts or bosoms could have been sold without your knowledge?

A. Yes, sir; they might have been.

X Q. 36. Do you wish to be understood as saying that prior to 1870 or '71 bosoms were not made with more than one ply?

A. I never saw any made with more than one ply.

X Q. 37. Question repeated.

A. I said I never saw any made with more than one ply.

X Q. 38. Question repeated.

A. As I said before, I don't recollect of seeing any made with more than one ply. That is all I wish to say.

X Q. 39. Question repeated.

Mr. Skilton states that the question so often repeated seems to attempt to force upon the witness a construction or interpretation of his answers which the witness does not seem inclined to make
258 nor to think it necessary to make, and it is protested that the matter of construing the answers of the witness belongs to the court before which this case is to be heard, aided by any suggestions on the part of counsel, and that the witness cannot properly be called upon to usurp those functions.

A. Well, they might have been made with more than one ply, but I never saw any.

X Q. 40. Did you examine personally the different styles of shirt that were made by Philadelphia manufacturers prior to 1875?

A. No, sir; I did not.

X Q. 41. Could you state without such examination what such shirts were composed of, or the manner and form in which they were constructed or made up?

A. No, sir; I cannot. I didn't give my attention to shirts, I was only in the shirt-front business.

X Q. 42. Could you recall at this date the different styles of shirts that were made prior to 1875 by the different manufacturers of the city of Philadelphia?

A. I think I answered that question once before.

X Q. 43. Question repeated.

A. No; I don't suppose I could.

X Q. 44. Could you tell a bosom like the one in Defendants' Exhibit A, if it is attached to the body of the shirt, without taking it apart and examining the same?

A. Yes, sir; I could.

X Q. 45. Could you tell without taking the bosom apart from the body of the shirt, to some extent, whether the raw edges of the bosom was covered by a binding and the binding turned in and under the bosom and then attached to the body?

A. No, sir; I don't suppose I could.

259 X Q. 46. Then, to discover this fact, would it not be absolutely necessary for you to take the bosom apart from the body of the shirt, to some extent?

A. Yes, sir; I think it would be.

X Q. 47. Then is it not possible that prior to 1875 you may have seen a shirt with the bosom similar to Defendants' Exhibit A, without having the same placed into your hand for inspection or examination?

A. Yes, sir; I suppose it might have been.

X Q. 48. In what manner or form were bosoms, prior to 1875, put together, consisting of more than one ply—I have reference solely to the edges?

A. Mostly all with raw edges.

X Q. 49. Have you ever seen such bosoms consisting of more than two plies after they were attached to the body of the shirt prior to 1875?

A. No; I don't know as I ever did.

X Q. 50. Have you ever seen in the shirt trade, prior to 1875, what was commonly known by the name of dickies?

A. Yes, sir; I have.

X Q. 51. What year did you see them?

A. I guess about 1870 to 1875.

X Q. 52. Will you please take a piece of paper and cut out therefrom the shape of the dickies as you saw them between those years?

A. I have done so.

The same is marked for identification Land Dicky, McL., N. P.

X Q. 53. Of how many plies were these dickies composed?

A. Well, I couldn't say how many plies, because we never made any at that time; but I saw them.

X Q. 54. These dickies were of the nature of a false bosom, were they not?

A. Yes, sir.

X Q. 55. There may have been more than — layer of material in the body of the dicky. Is that not so?

260 A. Yes, sir.

X Q. 56. You have seen them frequently, haven't you, between these years?

A. Yes, sir.

X Q. 57. What did you see on the raw edges surrounding the dicky?

Question objected to as improper cross-examination, being entirely outside of anything asked the witness on the direct, and notice is here given that motion will be made to strike this question from the record on that ground.

A. They were generally felled over by the same material—hemmed over by the same material.

X Q. 58. Did you——

CASSEL LAND.

Sworn to before me this 6th day of October, 1886.

ARCHER McLEARN,

[SEAL.] *Notary Public.*

Mr. Tim requests the notary to certify that this witness refuses to go on with his examination, or cross-examination, rather, and against the protests of Mr. Tim Mr. Skilton has the jurat attached to his testimony and requests the witness to sign his deposition be-

fore the close of his cross-examination; that there are material questions yet to be asked of this witness upon cross-examination, and that in the middle of the cross-examination Mr. Skilton interrupts the same and positively refuses to allow the question
261 to be put to the witness or written down by the notary; that Mr. Tim is now willing and ready to go on with the cross-examination of this witness.

Mr. Skilton states that the jurat was put on at his request after Mr. Tim, although repeatedly requested to do so, had declined to state his next question and neglected to do so; that this examination has been unduly prolonged, as counsel for complainants believes, for the purpose of using up the time of the complainants for putting in evidence, which expires to-morrow evening, while numerous witnesses are still unexamined in the city of Philadelphia, and counsel for complainants insists upon his right, in view of the fact that the solicitor for defendants had already gone outside of the direct for material for alleged cross-examination and had indicated his intention of proceeding still further in that direction, to close the testimony of this witness in the manner indicated by the record, the witness having been unduly detained from his business, and the ground of action of complainants' counsel and solicitor is that the defendants had no right to go outside of the direct examination for material for cross-examination, and that in the absence of any competent authority to rule upon the points in controversy there was no other method open to the solicitor for complainants in which to proceed, especially in view of the fact, well known to the solicitor for defendants, that the extended cross-examination yesterday prevented the taking of testimony in Nor-
262 ristown already noticed to-day, and of the other fact, well known to the solicitor for defendants, that notice has been given of the taking of testimony in this case at an early hour to-morrow morning in the city of New York; and the solicitor for complainants also asks the notary to certify to such facts contained in the foregoing statement of facts by the complainants' solicitor as may be within the knowledge of the notary.

Mr. Tim, replying, denies that he has unnecessarily taken up any time for the cross-examination, as the court can see for itself, or is endeavoring to prevent complainants' counsel from giving as full testimony as he possibly can, and says that this assertion of complainants' counsel is a base fabrication without any foundation whatsoever, as defendants' counsel was present yesterday in answer to the notice to take testimony at 11, whereas the testimony was not commenced till long thereafter, and sat continuously, excepting recess, until half past five last evening, and was then willing to go on with his cross-examination of the witness on the stand, when we adjourned at the request of Mr. Skilton; that defendants' counsel appeared this morning punctually at ten o'clock to continue the examination of witnesses in accordance with the adjournment, and was compelled to wait to half past eleven before a witness was produced, although the cross-examination of the witness who was on the stand yesterday

was not completed. Defendants' counsel further states and
263 asks the notary to certify that when the last witness declined to further answer defendants' counsel was ready to put a question on cross-examination to that witness, and was willing and requested the notary to take down the question in writing, but that Mr. Skilton refused to permit him so to do, unless the question was first stated by defendants' counsel to complainants' counsel. Mr. Tim further says that he has frequently extended the time for complainants' counsel to take testimony, and that upon examination of the record the court can see for itself that he was dilatory and negligent in taking testimony, and if he sustains any loss on account of the expiration of time it is due to his own negligence.

Mr. Skilton replies to the foregoing statement that on every one of the previous occasions when testimony has been taken herein in the city of Philadelphia he has made the attempt to secure the presence of Mr. Hutton for the purpose of taking his testimony in the case; but that owing to his residence out of the State and for other reasons beyond the control of solicitor for complainants it has been found impossible to secure his attendance; in one of these cases, at least, Mr. Hutton was found to be absent unexpectedly. The counsel for defendants was personally notified of the intention of complainants to take Mr. Hutton's testimony, and the time last evening, after adjournment at a late hour, and early this morning up to the hour when Mr. Hutton did attend was actively occupied in making the arrangements necessary to secure his attendance,
264 such use of the time being unavoidable. As to the extension of the time of complainants for taking testimony, we are now proceeding under the order of the court, which extended our time to the first of October, four additional days being added after the first of October or occupied, as the record will show, at the request of the counsel for defendants, who claimed to be and no doubt was so otherwise occupied that he could not attend on the days prior to the first of October, upon which complainants' solicitor had fully planned to take this testimony. As to the question of dilatoriness and negligence mentioned in the foregoing statement, a further reply will be made thereto in another form.

I, Archer McLearn, the notary in this case, do hereby certify that Cassel Land, a witness on behalf of the complainants, retired from the room before the close of the cross-examination in opposition to Mr. Tim's protest. Mr. Skilton objected — the cross-examination going further because it was not proper cross-examination, being outside of the direct examination, and requested Mr. Tim to state his question first in the presence of Mr. Skilton, completely, and before the same was type-written. This Mr. Tim refused to do. The witness also refused to answer any further questions, saying he had not been subpœnaed and could not give any more time in the matter. He then signed his deposition at the request of Mr. Skilton and left the room. That Mr. Tim requested to have his question on cross-examination to the witness Land taken down
265 in writing by the type-writer, but Mr. Skilton objected and would not permit the same to be done until Mr. Tim first

stated to him what the question would be, and this Mr. Tim refused to do.

Witness my hand and seal this 6th day of October, A. D. 1886.

[SEAL.] ARCHER McLEARN,
Notary Public.

Defendants' counsel here gives notice to complainants' solicitor and counsel that he will at the proper time and place move to strike out the entire testimony of the witness, Cassel Land, on the ground that he refused and declined to answer further questions upon cross-examination and signed his deposition and left the room where the same was being taken before the close of the cross-examination and without permission or consent from defendants' counsel.

Mr. Skilton further states that Mr. Tim stated a portion of his proposed next question; that the subject-matter of the question was the dicky referred to in the previous question, and was entirely relating, therefore, to a subject not mentioned on the direct examination, but it was the evident intention of the solicitor for defendants to force into this record in this irregular manner, after the time for taking the testimony for defendants had expired, *in* evidence for defendants, and for that reason was objected to on the part of complainants, and requests the notary to certify that the subject-matter of the question, so far as stated and not taken down by the
266 type-writer, was the dicky as herein stated.

Mr. Tim admits the foregoing statement, to which the notary is asked to certify.

Mr. Tim states that this witness was called to show the state of the art as it existed in Philadelphia in relation to bosom shirts, and therefore his question as to the dickies were proper and legitimate ones.

NEW YORK, *October* 7, 1886.

Met pursuant to adjournment.

Present: James A. Skilton, Esq., counsel for complainants; David Tim, Esq., solicitor for defendants.

Owing to the absence of proposed witnesses, who had promised to be present, the examination is adjourned until 2 p. m. of this date.

Met pursuant to adjournment.

Present: Mr. Skilton and the witness, William Ranken.

Mr. Tim appears at 2.20 p. m.

WILLIAM RANKEN, a witness produced on behalf of the complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. William Ranken; age, thirty-four; residence, Troy, New York; occupation, merchant.

267 Q. 2. Do you know Isaac H. Mambert; and, if yea, how long have you known him? I refer to Isaac H. Mambert who resides in Lansingburg, New York, and is at present employed in or in connection with the shirt-manufacturing firm of Mack & Company, of Albany, New York.

A. Yes, I know him; I should think in the neighborhood of about ten years.

Q. 3. What relations, if any, have you had with this Isaac H. Mambert?

A. When he was connected with, I believe the concern was Wight, Mambert & Seymour, I was connected with the laundry that did work for them, and in 1880 or '81 I formed a copartnership with him and with my brother for the manufacturing of shirts.

Q. 4. For the manufacture of what kind or style of shirt?

A. I believe it was called the "patent duplex shirt," and made under a patent which Mambert claimed he had.

Q. 5. Can you identify the patent to which you refer?

A. I don't know that I can from a cut, but I understand how the shirt was manufactured; I still have the patterns for making the shirt.

Q. 6. Please describe how the shirt was made.

A. It consisted of a reinforce shirt with the front separate from the main body of the shirt, joined together with a strip; formed something in the shape of a shield on the front of the shirt.

Q. 7. How did your partnership with Mr. Mambert come to be formed, and what was its object?

Objected to as immaterial, irrelevant, and improper.

A. Well, the object was for the manufacture of shirts; our bills advertised the duplex shirt—that is what we were to manufacture.

268 Q. 8. How long did the partnership continue?

Objected to on the same grounds.

A. I should think about a year; may have been less than that.

Q. 9. Why and under what circumstances was the partnership terminated?

Objected to on the same grounds.

A. Couldn't depend on Mambert.

Q. 10. Why not?

Objected to; same grounds.

A. Well, one reason, he was careless about sending off the shirts—not seeing that they were properly made. We manufactured a certain number of a shirt—a style—that we warranted to the trade a genuine Wamsutta shirt. Our agent on the road sold that shirt under that warrant, and Mambert cut up a lot of shirts under this brand that was not a Wamsutta shirt and sent them out to take the place of these orders—to fill these orders. The shirts were returned. The salesman on his return stated that the shirt was a fraud and not what it was warranted to be, and about all of those shirts were returned.

Q. 11. Who was responsible for the making up of these shirts, as to material, &c.?

Objected to; same grounds.

A. Mr. Mambert had the whole charge of the manufacturing.

Q. 12. Were you or your brother practical shirt-makers?

Objected to; same grounds.

A. No, sir.

269 Q. 13. When your salesman reported that these shirts were not made of the material represented what did you do about it?

Objected to on the same grounds.

A. We took the salesman in the presence of Mr. Mambert, and he declared that the shirt was not a Wamsutta shirt. Mr. Mambert declared up and down that it was. Afterwards he took me one side and said he didn't want the salesman to know anything about it, but that it was not a Wamsutta shirt.

Q. 14. What explanation did he make, if any, as to why it was not a Wamsutta shirt?

Objected to; same grounds.

A. He said that nobody could tell the difference.

Q. 15. What reply was made to that?

Objected to; same grounds.

A. That it was evident they could tell it from the fact that they returned the goods.

Q. 16. Who made that reply to Mr. Mambert?

Objected to; same grounds.

A. I did.

Q. 17. What explanation did Mr. Mambert further make, if any?

Same objection.

A. I don't think there was anything more said about it. We were provoked about it.

Q. 18. Who purchased the material represented to be Wamsutta and found not to be such, and why and where?

Same objection.

270 A. Mr. Mambert purchased it. The reason why I can't answer. He purchased it, I believe, of Church & Phalen, of Troy.

Q. 19. State whether this purchase was made with your knowledge and consent and that of your brother.

Objected to on the same grounds.

A. We knew nothing of it.

Q. 20. What was the result of this operation, so far as the firm was concerned?

Same objection.

A. One of the principal reasons for dissolving it.

Q. 21. What is Mr. Isaac H. Mambert's reputation in and about the city of Troy for veracity and reliability?

The form of this question is objected to as not being in proper form, and further on the ground that it is irrelevant, incompetent, and immaterial.

A. That I can't answer.

Q. 22. Have you had any other experience with Mr. Isaac H. Mambert beside that already detailed going to show whether Mr. Mambert is a man of truth, veracity, and reliability?

Objected to on the ground that the question is leading, and further as being incompetent, immaterial, and irrelevant.

A. Yes; he was a defendant with us in a lawsuit.

Q. 23. State what occurred in connection with that matter.

Same objection, and further that the record of the court is the best evidence.

271 A. In the course of the evidence Mr. Mambert was asked the question—when under oath—if he said to Mr. Merrit, the attorney, that this man was entitled to his money from our firm as defendants. Mr. Mambert at that time replied to Mr. Merrit that he did not make the statement, and Mr. Merrit was sworn and swore that he did.

Q. 24. What was the nature of the suit and for whom was Mr. Merrit attorney?

Objected to as being incompetent, irrelevant, and immaterial, and the record of the court is the best evidence.

A. The suit was to recover a claimed salary from our firm. Mr. Merrit was attorney for the plaintiff, E. A. Williamson—I think the initials are E. A.

Q. 25. Was this suit brought before or after the dissolution of your business relations with Mr. Mambert?

Same objection.

A. After.

Q. 26. What business relation have you had, if any, since that time with Mr. Mambert?

Same objection.

A. Well, he came to see me to see if he could be released from a judgment that this Williamson got against the concern in that case. I referred him to the party that held the judgment; that is all I recollect of further business relations with him. This suit was in the supreme court of Rensselaer county, New York.

Direct examination closed.

No cross-examination.

WM. RANKEN.

Sworn to before me this 7th day of October, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

272 Defendants' solicitor here gives notice to complainants' counsel and solicitor that at the proper time and place he will make a motion to strike out from the record of this case the entire testimony of this witness, William Ranken, on the ground that it is irrelevant, incompetent, and immaterial; that, in the case of Geo. B. Cluett *et al.* against Horace B. Claflin *et al.*, the Isaac Mambert referred to in this witness's testimony was not a witness either for the complainants or the defendants, nor was there any person called or examined as a witness by either the complainants or the defendants in this case bearing the name of Isaac H. Mambert or any name similar thereto.

ROBERT CLUETT, recalled on behalf of complainants, being duly sworn, deposes and says:

Q. 1. I call your attention to questions 5 and 6 and the answers thereto, in the testimony of Edward Wallerstein, a witness produced on behalf of the defendants herein on April 9th, 1886, which I now read as follows:

"Q. 5. Did you then and there have a conversation with him (meaning Hiram M. Ford) relative to the Cluett bound-bosom shirt upon which this suit has been instituted?

"A. I had.

"Q. 6. Please give the conversation as fully as you can now remember the same.

"A. He asked me whether we were sued by Cluetts. I said yes. He says, Why don't you combine with Mack, in Albany, and others that will be sued or have been sued already? I told him I did not know anything about that. He said that he had made a
273 shirt long before Cluetts, and that Cluetts had sent for him and offered him $800 to sell his prior right of having made this shirt, but he would not sell his right. If the patent was good he intended to have the full benefit out of it. I knew then of the letter he had written to Mack, and he stated that Mack could not get his testimony unless he would pay him, as he considered it his right to use the patent, which he considered his own and, as he used the word, stolen by Cluetts. He said that he could break up the patent at once right in Troy, and I told him he couldn't expect Mr. Mack or any one else to lay down $1,000 without knowing he was really entitled to it as an inventor, and he said he would not testify unless he got the money."

I also call your attention to cross-questions 20, 21, and 22 and the answers thereto found in the testimony given by Ed. Elisha Mack, a witness produced on behalf of the defendants herein on or about April 9th, 1886, which I now read to you as follows:

"X Q. 20. How many conversations did you have with Mr. Ford on this subject, and where?

"A. I think three different times, in Albany, and within three days.

"X Q. 21. Was there any conversation on the subject of the payment of money by you at either of these interviews for testimony to break the Cluett patent or in relation thereto?

"A. No; but there was a conversation in relation to giving money for an affidavit and for transfer of priority of invention which he claimed.

"X Q. 22. State what was said.

"A. Mr. Ford said that he was the original inventor of the bound-bosom shirt; that he had made the bound-bosom shirt continuously for five years and upwards prior to the date of the Cluett letters patent; that the patent was good for nothing, and he could break the patent; that he didn't propose to give any affidavit unless
274 he was paid for it, and he wouldn't give an affidavit as was wanted unless he was paid $1,000. He stated that the Cluetts had offered him $800 to not testify in any case to what he knew regarding the manufacture of bound-bosom shirts and his assignment to them of priority of invention."

I further call your attention to the following language, found in a letter dated September 3d, 1885, addressed to Messrs. Mack & Co., signed F., and put in evidence on behalf of defendants herein, purporting to be a letter written by Hiram M. Ford:

"I enclose you article of agreement, which I am willing to sign upon the stipulations therein contained being complied with. I find that I am able to obtain from other parties the sum specified in article and without any further trouble to me, but, as I agreed to take the sum from you, I am ready to fulfill."

What have you to say as to the statements made in these three several pieces of evidence in so far as they relate to yourself, to the firm of Geo. B. Cluett, Bro. & Co., and to the other members of that firm, and in reference to negotiations with the Hiram M. Ford referred to, to the payment of moneys to him as stated by you or by them, or to other dealings with the said Ford in connection with the bound-bosom patent here in suit and the matter here in controversy?

A. I emphatically deny any knowledge of the negotiations alluded to in the three statements read. As a member of the firm I will state that I have not attempted, directly or indirectly, to negotiate with the Mr. Ford alluded to. I do not know that I have ever seen him, nor did I ever hear of him till his name appeared in connection with this suit on the occasion of his giving testimony.

Q. 2. If you recall, please state how and from whom you first ascertained the existence of such a person as Hiram M. Ford.

275 A. If I mistake not, my attention was first called to Mr. Ford by the testimony given by Mr. Clark, of Chatham.

Q. 3. What do you know as to any such dealings with Mr. Ford or propositions as are stated in question one herein by other members of your firm?

A. I am quite sure that no such negotiations were ever entered upon by any member of our firm.

Q. 4. If you have any evidence to that effect please produce it.

Question objected to as incompetent.

A. I here produce three affidavits, one by Geo. B. Cluett, another by J. W. Alfred Cluett, and a third by Rowland S. Norton, these three, with myself, constituting the firm of Geo. B. Cluett, Bros. & Co.

Mr. Skilton offers in evidence on behalf of complainants the three affidavits last referred to, and they are marked as follows:

Complainants' Exhibit Geo. B. Cluett, Ford Affidavit, E. S. B., N. P., October 7, 1886; Complainants' Exhibit J. W. Alfred Cluett, Ford Affidavit, E. S. B., N. P., October 7, 1886, and Complainants' Exhibit Rowland S. Morton, Ford Affidavit, E. S. B., N. P., October 7, 1886.

The admission of these three affidavits is objected to on the ground that they are not sworn to before a proper officer; that they are *ex parte* affidavits and are incompetent, and notice is hereby given to the complainants' counsel and solicitor that at the proper time and place defendants' solicitor will move to strike from the record of this case the testimony of the witness, Robert Cluett,
276 bearing on this subject, and also the affidavits themselves.

Solicitor for complainants hereby gives notice to the solicitor for defendants that he will produce the three affiants mentioned in the three affidavits referred to for cross-examination on behalf of defendants herein at any time the solicitor for defendants may name upon the matters stated in these several affidavits.

Q. 5. I read questions 23, 24, and 25 in the testimony of Hiram M. Ford herein—see pages 15 and 16 of Defendants' Printed Record—as follows:

"Q. 23. Did you ever make a shirt like Defendants' Exhibit A for a man by the name of Mr. Thomas, formerly of Troy, New York?

"A. I made shirts for a Mr. Thomas—Henry R. Thomas, now of Troy; lived at Troy since he was a boy. He is a member of the firm of John D. Spicer & Co., of Troy.

"Q. 24. At what time was this?

"A. Prior to 1870. The books will show.

"Q. 25. Can you tell us whether these shirts like Exhibit A which you made for Henry R. Thomas ever came into possession of Geo. B. Cluett, Bro. & Co., of Troy?

"A. I have every reason to believe they did prior to 1870; but I must state that the Thomas shirts were identical with Defendants' Exhibit A excepting having been open in front."

I also call your attention to cross-questions 167 to 173 and the answers thereto, found in the testimony of Hiram M. Ford, on pages 32 and 33 of Defendants' Printed Record herein, as follows:

"X Q. 167. Has he ever said to you that any such shirt belonging to him was shown to George B. Cluett, Brother & Co. by him?

277 "A. I think he told me he had one of my make of shirts on when Messrs. Cluett measured him for those they made for him.

"X Q. 168. Did he say when that occurred?

"A. I cannot say he did.

"X Q. 169. Did he say that any notice was taken of the shirt on any such occasion by Messrs. Cluett?

"A. I do not recollect that he did.

"X Q. 170. In answer to direct question 25 you say in answer to the question, 'Whether these shirts like Exhibit "A" which you made for Henry R. Thomas ever came into the possession of George B. Cluett, Brother & Co., of Troy,' and you answered, 'I have every reason to believe they did prior to 1870.' What reason had you for such belief?

"A. I am not aware that I said 'that they came into their possession,' only as having been seen on Mr. Thomas' back while being measured by Messrs. Cluett & Co. for a shirt or shirts, Mr. Thomas having told me that Messrs. Cluett & Co. had made shirts for him.

"X Q. 171. Then, as I understand, you have reason to believe that George B. Cluett, Brother & Co. saw a shirt with a bound bosom on Mr. Thomas prior to 1870, when Mr. Thomas was being measured by them preparatory to making him some new shirts?

"A. Well, as to 1870—as to the particular year—I cannot recollect.

"X Q. 172. You state in your answer to question 25 that 'it was prior to 1870.' Do you wish to correct that statement?

"Witness requests to hear the question read. Question and answer read.

"A. I do. I withdraw the date of 1870.

"X Q. 173. What date do you put in its place, or do you withdraw the whole answer to question 25?

278 "A. 1874; I only withdraw the date."

In this connection I ask you what is the fact as to your firm being engaged in the business of manufacturing shirts prior to 1870.

A. We were not at that time engaged in the manufacture of shirts.

Q. 6. When did your firm commence the manufacture of shirts—the Cluett firm—under any title?

A. I think in the fall of the year 1872, under the firm name of Cluetts & Burrage.

Q. 7. Did this firm or any Cluett firm of Troy manufacture any shirts for Mr. Henry R. Thomas, referred to in the testimony last quoted, in 1870, 1874, or between those dates, or when, if ever, did they first so manufacture or measure Mr. Thomas for shirts.

A. Our firm did not make any shirts for Mr. Henry R. Thomas nor take his measure for any shirts in 1870 or at any time between that year and 1874. When I say our firm I mean either Cluetts & Burrage or any firm manufacturing shirts with which we were connected as partners. Our record shows that the first order for shirts received from Mr. Thomas was placed in 1876. I have

the order book containing this order and can produce it if desired. I find the date on which order is entered is August 22, 1876.

The order referred to is here offered in evidence on behalf of complainants, and is marked Complainants' Exhibit Thomas Order, August 22, 1876., E. S. B., N. P., October 7, 1886.

The offer is objected to as not being properly given, and the usual notice is here given; and also notice is given that the testimony of this witness on this point will be asked, on motion, to be stricken from the record.

Direct examination closed.

279 Cross-examination by Mr. DAVID TIM:

X Q. 8. Who compose the members of your firm?

A. George B. Cluett, J. W. Alfred Cluett, Robert Cluett, and R. S. Norton are the present members of our firm.

X Q. 9. How long have they composed your firm?

A. With the exception of Mr. Norton I think they have composed our firm since 1866.

X Q. 10. When did Mr. Norton become a member of the firm?

A. I cannot answer that question without reference to our books, as I do not at this moment recall the date.

X Q. 11. About how long?

A. It would be mere guess-work for me to attempt to state.

X Q. 12. Then, guessing at it, what time would you fix?

A. If it is desired I will obtain the date and present it at some future time.

X Q. 13. Question repeated.

The repeated question objected to as having been sufficiently answered and as being improper in form and incompetent.

A. If I am required to guess I should say I guess it was between 1866 and 1880.

X Q. 14. Was he a member of the firm at the time the alleged patent in suit was assigned and also when this suit was commenced?

A. His name appears on our bill-heads and letter-heads with the names of the other members of the firm, but he does not participate in the actual profits of the business, nor does he assume any of the risks, as he draws a specified sum each year.

280 X Q. 15. Question repeated.

A. My answer was intended to cover the period named.

X Q. 16. My question to you was whether he was a member of the firm or a partner when the alleged patent in question was assigned, and also when this suit was instituted.

Question objected to as sufficiently answered and also repeatedly answered.

A. My best information is that at the time of the assignment of the patent Mr. Norton was not a member of the firm. At the time the suit was commenced his name appeared on the bill-heads and

letter-heads, and he was connected with the firm in the manner which I have previously mentioned.

X Q. 17. Was he a partner in your firm when this suit was commenced?

Question withdrawn for the present.

X Q. 18. Are there any articles of agreement or copartnership existing between this Mr. Norton and the other individual members of the firm of Geo. B. Cluett, Bro. & Co.?

A. Mr. Norton is a member of the firm only in the manner I have already stated, and I am not aware of any articles of agreement in existence showing what his relations are and signed by the members of the firm.

X Q. 19. Was not testimony taken in this case on the part of the complainants in the city of Troy, where your firm conducts its business and where the individual members thereof reside?

A. The records will show that such testimony was taken in the city of Troy.

X Q. 20. Did the individual members of your firm know that such testimony was being taken at that time?

281 A. I presume they did.

X Q. 21. Were you not present in person at the taking of that testimony?

A. I cannot say that I was present while all the testimony was being given, but I believe I was during the greater part of it.

Mr. Skilton states that all the testimony was taken on behalf of complainants that could be taken during the time when the defendants' solicitor or counsel could attend, and at the request of the counsel for defendants the examination of witnesses on behalf of complainants was limited as shown by the record or to the time shown by the record to suit his convenience and by stipulation between counsel to that effect and for that purpose, a considerable portion of the testimony being taken by gas-light in order to accommodate defendants' counsel and permit him to return to New York, where, as he stated, urgent business demanded his presence.

Defendants' solicitor denies the statement that the taking of this testimony in anywise was for the convenience of defendants' counsel or solicitor, as it was his right and the rights of the defendants to cross-examine the witnesses produced by the complainants, which was the case when the testimony was taken in Troy as aforesaid.

The solicitor for complainants states that the solicitor for defendants was not present at the taking of testimony on behalf of complainants in rebuttal in the city of Troy and had no personal

282 knowledge of what was there said and done between opposing counsel. He also states emphatically that the examination of other witnesses on behalf of complainants was objected to on the part of the representative of defendants, and therefore the examination of other witnesses residing in Troy was agreed, so far as it was possible, to be taken in the city of New York subsequently, and this after one of the members of the firm had appeared at the place

where testimony was being taken for the purpose of giving his testimony herein.

X Q. 22. Are you absent from your place of business for any length of time at any one time?

A. That depends on what you mean by "any length of time."

X Q. 23. Question repeated.

A. I do not know what you mean.

X Q. 24. Are you ever absent from your business for one whole day?

A. Very rarely.

X Q. 25. Can you state whether between '74 and '6 or during '74 you were absent from your business for a day or more, exclusive of Sundays or holidays?

A. Ever since I have been in business I have confined myself closely to it, and have seldom been absent a day, with the exception of Sundays and holidays, unless absent on account of sickness or possibly for a brief period during the summer, or unless called out of town by some important matter.

X Q. 26. Question repeated.

A. I have answered the question in the best manner I know how.

X Q. 27. Did you take any vacation from business during the summer of 1874?

A. I may have done so; but as the Thomas order appears
283 on the order book in my own handwriting I do not think I was on my vacation when the order was placed.

The latter part of this answer is objected to as irresponsive, and motion will be made to strike the same from the record. The usual notice is here given.

X Q. 28. Were you called out of the city of Troy on business during the year 1874?

A. It is quite likely that I was.

X Q. 29. Then it is likely that during the year 1874 there were times when you were absent from your place of business; is that so?

A. As already stated, there were times when it was impossible for me to be at my place of business, and such times undoubtedly occurred during the year 1874.

X Q. 30. And such times are likely to have occurred during the last three years; is that so?

A. During the last three years I have undoubtedly been absent from business occasionally, though not frequently, as in other years.

X Q. 31. Would you have personal knowledge of what transpired in and about the business on such occasions?

A. It would depend on whether it was immediately connected with that branch of the business to which I give my personal attention.

X Q. 32. Supposing such to be the case as stated in your answer, would you have a personal knowledge of what transpired when you were absent?

A. Things might transpire in my department of the business

during my absence which would not be of sufficient importance for my attention to be directed to them on my return. If you mean my personal knowledge—that my person could be at the factory and in some other town at the same time—I would state that I have not been able to accomplish such a feat.

284 X Q. 33. Will you please, without indulging in any superfluous language or demonstrations, answer my question, and state whether certain things or matters could not have been transacted in your place of business without your personal knowledge during those days in which you were absent therefrom?

A. I have already stated that such things as transpired in that branch of the business to which I give my personal attention, during my absence from business, that were deemed of sufficient importance were brought to my notice on my return.

X Q. 34. Could you say here, as a positive fact, that all matters that transpired in your branch or department of the business were brought home to your notice after your return to the factory whenever you were absent therefrom?

A. As I have already stated, such matters as were deemed of sufficient importance were brought to my notice and had my attention.

X Q. 35. Question repeated.

A. I again say that if they were deemed of sufficient importance my attention was called to them.

X Q. 36. Can you state positively that all matters of importance that transptred in your branch during your absence were brought to your notice after your return?

A. I do not know how I can answer the question better than I have already tried to answer.

X Q. 37. How do you know, being absent from the business and consequently having no personal knowledge of what transpired, that on your return you were notified of all the important matters transacted during your absence?

Mr. Skilton states to the witness that if such was the custom he might so state.

A. It has been the custom and still is the custom for mat-
285 ters which have transpired during my absence or which do transpire during my absence to be brought to my notice on my return.

X Q. 38. Each member of your firm has his distinct department to which he gives his attention; is that so?

A. It is.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 39. Please state whether you have examined the order book of Cluett & Burrage or the Cluett firm for shirts from the beginning of the shirt business down to and including the order book of the order heretofore put in evidence or had it examined for the

purpose of ascertaining whether or not such book contained the Thomas order for shirts; or, rather, what examination, if any, of the order book have you made for Thomas orders prior to August 22, 1876?

A. Not only was a record kept of each order as it was received by entering the same on an order book, but an index book was also carefully kept, alphabetically arranged, showing the names of each party ordering and the number of his order. I have made a careful examination of the index book referred to and find but one order entered as having been given by Mr. Henry R. Thomas, and that one is the one I have previously alluded to as having been entered August 22, 1876.

Examination of this witness closed.

ROBERT CLUETT.

Sworn to before me this 7th day of October, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

286 Solicitor for complainants hereby notifies the solicitor for defendants here present that upon the record of this case and also upon affidavit, copies of which will be served upon him, motion will be made on the next motion day and an order will be asked giving complainants further time for putting in testimony in rebuttal herein on the ground of newly discovered evidence in part, and in part on the ground that it has been found to be impossible, within the period heretofore fixed, to take the testimony of all the witnesses necessary for the protection of the rights of the complainants, and which ought to be produced on their behalf therein, numerous witnesses whose testimony is desired not having been reached and put upon the stand to testify.

At half past six, October 7, 1886, the examination of witnesses is adjourned, subject to the notice, as the court may order.

287 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

SIR: Please take notice that I shall take testimony on behalf of complainants herein at 10 o'clock a. m., November 1st, 1886, Monday, before Timothy Griffith, Esq., a standing examiner, at his office, in the United States building, New York city. You are respectfully

requested to attend and cross-examine the witnesses, etc.; witnesses to be examined under the 67th rule in equity, as amended.

Yours truly, JAMES A. SKILTON,
Solicitor for Complainants.

Dated New York, October 27, 1886.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

288 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN *et al.*
} In Equity.

Testimony taken on behalf of complainants in rebuttal, under and pursuant to the 67th rule in equity (as amended) of the United States Supreme Court, before Timothy Griffith, Esq., a standing examiner of said court.

NEW YORK, *November* 1, 1886—10 a. m.

Met pursuant to notice.

Present: Mr. James A. Skilton, for complainants, and Mr. David Tim and Mr. Raegener, for defendants.

ADOLPH HERRMANN, being called by complainants and duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Adolph Herrmann; aged fifty; I reside at 50 West Forty-ninth street, New York, and my occupation a merchant and manufacturer.

Q. 2. What was your occupation in 1875 and 1876?

A. The same as to day.

Q. 3. Where was your manufacturing establishment at the time and where was your warehouse or salesrooms?

289 A. My manufacturing establishment was at Troy, and my warehouse was at 115 and 117 Franklin street.

Q. 4. What goods did you manufacture in 1875 and 1876, and from that on to 1879 or 1880?

A. I manufactured handkerchiefs, shirt fronts, and several other articles.

Q. 5. What was the title of your firm at that time?

A. Herrmann, Aukam & Co.

Q. 6. Were you or your firm licensees under the bound-bosom shirt patent granted to Robert Cluett, patentee, and owned by George B. Cluett, Brother & Company, of Troy, New York?

Objected to as leading, and if in writing this would be the best evidence.

A. The firm was.

Q. 7. For what term was that license granted—how long?

This question is objected to, if the agreement or license was in writing, on the ground that the written instrument is the best evidence.

A. I think, for a term of years. I don't recollect how many.

Q. 8. Will you please examine the paper I now place in your hands, which is marked on the back "George B. Cluett, Bro. & Co. with Herrmann, Aukam & Co.—agreement" and state whether you recognize the paper and the last signature attached thereto?

A. I do. I recognize the paper and recognize the signature as the signature of my firm, written by me.

The same is marked for identification of this date as follows: "Cluett Bound Shirt License to Herrmann, Aukam & Co.," T. G., Ex'r.

290 Q. 9. Did your firm pay the license fees mentioned in this agreement during and up to the end of the term for which the license was granted or not?

Objected to on the ground that it is too leading.

A. We did.

Q. 10. Please state whether you enjoyed the exclusive privileges of the patent as covered by this license or agreement during the term of years covered by the license or not.

Objected to as leading.

A. I did.

Q. 11. Did you know or learn of any infringements of the patent during the term of years covered by this license?

Objected to as immaterial and irrelevant.

A. I did not.

Q. 12. State whether you would have paid the license fees if you had known or learned of any infringement of the patent during that time.

Objected to as leading; also as immaterial, irrelevant, and incompetent.

A. Not unless I was forced by law.

Q. 13. Were you ever forced by law to so pay the fees?

A. No.

Q. 14. If you had learned of such infringements what steps were you authorized to take in the premises?

Objected to as irrelevant, immaterial, and incompetent.

A. My license provides for that.

291 Q. 15. I mean what practical steps?

Same objection.

A. I would have notified Mr. Skilton, who had the matter in charge.

Q. 16. Did you know the firm of Rothschild Bro. & Gutmann, of

New York, and the firm of Rosenbach & Co., of Philadelphia, in the year 1875; and, if yea, did you have any business relations with them or either of them?

Same objection.

A. I knew both firms, but I cannot recollect any business transaction appertaining to this thing.

Q. 17. The fifth clause of this agreement provides for the keeping of the books of account containing a record of the work done under this license. Did you keep such books; and, if yea, where are they?

A. I did keep the books, and they were burned in 1880, at 72 to 78 Federal street, in the same building where Cluetts were.

Q. 18. According to the first clause of this agreement of license between you and the Cluetts, specimens of the shirts and shirt bosoms were to be deposited with the licensers. Please examine the three shirt fronts I now place in your hands and state whether or not they are the shirt fronts manufactured by you under this license.

Objected to as leading.

A. I think they are.

The same are marked for identification of this date as follows: "Three Hermann, Aukam & Co. Specimens," T. G., Ex'r.

Cross-examination by Mr. TIM:

292 X Q. 19. Can you state the aggregate amount of license fees you paid under this agreement of license?

A. I cannot; I have not the remotest idea.

X Q. 20. When you entered into this agreement with Geo. B. Cluett, Bro. & Co. did that firm, any member thereof, or any other person, state to you or your firm or lead you or your firm to believe that Robert Cluett was the first inventor of the shirt bosom covered by the alleged letters patent mentioned in said agreement?

A. I can't recollect any such thing.

Redirect:

R. D. Q. 21. Where did your duties in connection with the firm of Hermann, Aukam & Co. require you to be, in the factory at Troy or in the salesrooms in N. Y.; and what are your duties in connection with the business?

Objected to as immaterial.

A. I think I was in New York; to attend to my business.

R. D. Q. 21½. What was the nature of your duties in the firm?

Objected to as irrelevant, incompetent, and immaterial, and should be part of the examination-in-chief.

A. To attend to the business.

R. D. Q. 22. In what part of the country and to whom were these shirt fronts made under this license sold?

Same objection.

A. I could not recollect.

R. D. Q. 23. Were they sold to parties outside the city of New York?

Same objections.

293 A. I have not got the faintest recollection.

Solicitor for complainants here offers in evidence on behalf of complainants the license of Geo. B. Cluett, Bro. & Co. to Herrmann, Aukam & Co., heretofore marked for identification, and the same is marked as follows: Complainants' Exhibit Cluett Bound-Bosom Shirt License to Herrmann, Aukam & Co., Nov. 1, 1886, T. G., Ex'r.

ADOLPH HERRMANN.

Sworn before me—

TIMOTHY GRIFFITH, *Examiner.*

Adjourned to Thursday, November 4, 1886, at 11 a. m.

NEW YORK, *November* 4, 1886—11 a. m.

Adjourned to Friday, November 5th, 1886, at 2 p. m.

NEW YORK, *November 5th*, 1886—2 p. m.

Met pursuant to adjournment.

Present: Mr. Skilton, for complainants, and Mr. Tim and Mr. Raegener, for defendants.

Mr. ISAAC FRANK, being called as a witness on the part of the complainants and duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Isaac Frank; age, 51; I reside at 112 E. 79th street, N. Y. city, and am by occupation a shirt manufacturer, at 47 and 49 White street.

Q. 2. Are you the person of the same name who gave testimony in the suit of Geo. B. Cluett *et al. vs.* Horace B. Claflin *et al.*, pending in this circuit on March 20, 1886, on behalf of the defendants therein?

294 A. Yes, sir; I think that was about the time. I do not know the exact date.

Q. 3. In A. to Q. 6 in that examination you said that in the case of a shirt manufactured by you "the centre pleat of the bosom was bound before it was put on the shirt. Then it was put on the shirt with a row of stitching, and sometimes with two rows of stitching, according to the quality of shirt and to the requirements of its making. The binding would go all around from neck to the tab—that is, around the centre pleat—that is, the centre pleat would be entirely bound." Have you brought with you the order book and other records of your manufacture of the shirts described in the answer quoted above, as required in the subpœna with which you have been served, and have you been served with a subpœna in this case to bring such books?

The part of the question relating to the books is objected to unless it is shown that the proper subpœna was served upon the witness within the required time.

A. I have been subpœnaed to bring the books referred to. I have been trying to hunt up the books prior to 1874, but did not have time to do it, as the subpœna was served at one o'clock and it would probably take three or four hours or perhaps longer to gather them. The subpœna was made returnable at 2 o'clock.

Q. 4. Have you in your possession at this time books or records covering the period embraced in your manufacture of shirts, as testified to in your testimony on behalf of defendants herein?

A. I think we have all our books.

Q. 5. Covering the period testified to on behalf of the defendants do you mean?

A. I do not think it would show anything in the books how the bosom was made. We have all the books covering the period inquired about.

295 Q. 6. When can you produce these books?

A. I can produce them to-morrow.

Counsel for complainants requests the examiner to notify the witness that this examination will be adjourned to Saturday, the 6th November, at 10 o'clock a. m., to enable the witness to produce the books called for by the *subpœna duces tecum* served on him.

The witness is paid his fee by complainants' counsel.

The examiner read the foregoing request to the witness.

The examination of this witness is suspended to November 6th, 1886, at 10 a. m.

MOSES CAHM, being called as a witness on behalf of complainants and duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Moses Cahm; aged 53; I reside at 113 East Ninety-first street, New York city, and am by occupation a salesman in the shirt business.

Q. 2. Are you the person of the same name who gave testimony on behalf of the defendants in the suit of Cluett *et al. vs.* Claflin *et al.* on or about December 23, 1885?

A. I gave testimony about that time. I do not remember the date exactly.

Q. 3. In answers to questions 10, 11, 12, 13, etc., you spoke of having manufactured, about 1869, shirts like Defendants' Exhibit A herein. Have you in your control any books or written records showing how the shirts referred to in those answers were made or were to be made?

A. No, sir.

Q. 4. Have you been served with a subpœna to produce the
296 records of your shirt manufacture and sales prior to November, 1874, by a subpœna issued in this case?

A. I was served with this paper here (producing a subpœna). I answer yes.

Q. 5. Please produce the books and papers called for in the subpœna mentioned.

A. I have none.

Q. 6. What has become of them?

A. I could not tell you, sir.

Q. 7. Did not you or your firm have such books?

A. We kept books; yes.

Q. 8. What became of them?

A. I could not tell you, sir. They went out of my hands.

Q. 9. Into whose hands did they go?

A. I do not know.

Q. 10. Did you not keep an order book showing what styles of shirts were ordered and were to be made during the period covered by your testimony on behalf of the defendants in the suit of Cluett vs. Claflin?

A. No, sir; I don't remember of any special record of anything.

Q. 11. How could the orders be filled without something to designate the style of shirts?

A. The numbers which we had would designate.

Q. 12. Did you have no books containing a description of the shirts referred to by numbers, as you have stated?

A. No, sir.

Q. 13. Did you or your firm fail after 1869?

Objected to as impertinent, immaterial, irrelevant, and incompetent.

A. Yes, sir.

Q. 14. When?

Same objections.

297 A. I think it was 1875 or '6.

Q. 15. Who settled up the business?

Same objections.

A. I don't remember who settled it up.

Q. 16. Did you settle it?

Same objections.

A. No, sir.

Q. 17. Did your partner settle it?

Same objections.

A. No, sir.

Q. 18. Did you make an assignment?

A. I don't remember.

Q. 19. Were there any proceedings in bankruptcy under the United States law or the State law for the purpose of closing up your business?

Same objections.

A. I don't remember.

Q. 20. Who was your partner?

A. Salmon.

Q. 21. Is he living?

A. Yes, sir.

Q. 22. Where and what does he do?

A. I could not tell you, sir. I have not had his address, and he has lived in Europe, I think, in the neighborhood of 10 years.

Q. 23. Do you know of any one who does know where the books or records called for in your subpœna are?

A. No, sir.

Q. 24. You stated in your previous examination on behalf of the defendants in the Claflin case that you thought that in 1869 you made shirts like Defendants' Exhibit A in that case, with the
298 exception of the bosom being broad at the bottom. You will please take a piece of paper and cut out and shape the front part of the body of the shirt and the bosom just as it was in the shirts to which you referred in that testimony as made by you.

A. I cannot do it. I never paid any attention to the manufacture. My business was the selling of the goods.

Q. 25. All I want is that you should shape in paper and in miniature model the shirt front, shirt bosom, and binding referred to in your testimony on behalf of defendants in the Claflin case. Please do so.

Objected to as a repetition of a former question which the witness has already answered by stating his inability to do so.

A. I could not do it.

Q. 26. Why can't you do it?

Objected to on the ground that this witness is not now under cross-examination, and, being a witness for complainants, they cannot cross-examine their own witness.

A. I don't know how.

Q. 27. Why don't you know how?

Same objection.

A. I don't know how. I can't explain you any more. I never drafted anything in my life.

Q. 28. Please make a sketch of it showing how the layers of material were disposed.

Objected to as having been already gone into on the cross-examination of this witness.

A. I couldn't do it.

299 Q. 29. Don't you remember how they were disposed?

Same objection.

A. All I know is that as far as I can tell they must have been laid on top of each other.

Q. 30. Please explain in words how they were laid on top of each other.

Same objection.

A. I presume they were laid on top of each other the same as any other bosom—two or three plies.

Q. 31. Is that all the explanation you can make of it?

A. Yes, sir.

Q. 32. Please explain in words, show in a sketch, and illustrate in a miniature paper model how the Defendants' Exhibit A, submitted to you at the time of your previous testimony in the Claflin case, was made in respect to the shirt front, shirt bosom, and binding.

A. I could not do that. I don't know how to make a model or anything.

Q. 33. Do you think it is possible for you to find the books of your firm or for any one else to find those books as called for in the subpœna with which you have been served?

A. I do not know.

MOSES CAHM.

Sworn to before me—

TIMOTHY GRIFFITH, *Examiner.*

JACOB BALLIN, being called by complainants and duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation?

300 A. Jacob Ballin; age, 53. I reside at 58½ Rush street, Brooklyn, N. Y., and am by occupation a shirt manufacturer.

Q. 2. Have you been served with a subpœna directing you to produce books in this case?

A. I was served at 12.45 with a subpœna to be here at 2 to-day.

Q. 3. Do you produce the books called for in the subpœna; and, if not, why not?

A. I do not, because it was impossible for me to do so.

Q. 4. Will you be able to do so by to-morrow morning?

A. I will not.

Q. 5. When can you produce them?

A. If I have to produce day books and ledgers it will be very inconvenient; but I can do so next Monday at 2 p. m. (Nov. 8th, 1886).

Complainants' counsel requests the examiner to notify the witness that there will be a session of this examination for the purpose of examining the books of this witness on Monday, Nov. 8th, 1886, at 2 p. m.

The examiner read the foregoing request to the witness, and the witness is paid his witness fee by complainants' counsel.

Adjourned to Saturday, Nov. 6th, 1886, at 9.30 a. m.

301 NEW YORK, *November 6th*, 1886—9.30 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Examination of ISAAC FRANK resumed:

The witness produces four books, which he calls "work books,"

and one of which covers a period from March 19, 1870, to January 20, 1871; another covers the dates between Sept., 1872, and Sept., 1875.

They are marked for identification of this date Frank Book, Nos. 1, 2, 3, and 4.

Q. 7. How did you designate the shirts manufactured prior to and in the vicinity of 1874—by numbers, letters, or how?

A. By numbers and letters.

Q. 8. Will you please produce the book or books on record showing what these numbers or letters indicate as to the character or make-up of the shirts which they represent or identify?

A. These books show them. That is the only thing I know of.

Q. 9. Have you not any other book covering a portion of the period before 1874 containing items of the style and make-up of the shirts designated by the letters and numbers found in these books indicating the shirts by a particular mark?

A. No, sir. I could not find any and do not know of any. There may be in any of these books.

Q. 10. In book No. 4, produced by you, I find on one side of the page the names of various persons. What do those names indicate?

A. Those are the makers who made the work—different hands.

Q. 11. Please point out in book No. 4 the names of any
302 persons who manufactured the shirts described by you in your testimony on behalf of defendants in the Claflin suit.

A. I cannot do it myself, but must refresh my memory by asking the man who gave out the work; except the bosom-maker who made the bosom—Mr. R. A. Van Buren, of Brooklyn. Mr. Lawson, then of Brooklyn, also made bosoms for me then, but I do not know where he is now. I think there might be some other bosom-makers which the books will show. I think Mr. Lawson made bosoms for us only after 1874.

Counsel for complainants requests that the four books produced by this witness shall be left in the custody of the examiner for a reasonable period and open to examination by counsel to both sides and to their inspection for the purposes of this case, and requests the examiner to so direct or order.

Counsel for defendants states that if the witness is willing to leave his books he certainly cannot interpose any objection, but if the witness does object to leaving his books, then counsel for defendants objects to the request of complainants' counsel.

Q. 12. Do you object to the above request made by complainants' counsel?

A. I do object unless I am compelled by the court.

The examiner hereby certifies the foregoing record to the court, as the examiner has not the power to direct or order as above requested.

Counsel for complainants states that on presenting the re-

303 quest entered upon the record above to the court for an order Judge Coxe refused to grant such an order.

Adjourned until Monday, November 8, 1886, at 10 o'clock a. m.

The witness is notified to appear on Monday, November 8, 1886, at 10 a. m., for further examination as to the books here produced by him, counsel for complainants having paid the witness fee of $1.50.

NEW YORK, *November 8th*, 1886—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Examination of witness FRANK continued:

Q. 13. Will you please point out in the four books which you reproduce this morning any description they may contain of the shirts testified of by you when testifying on behalf of the defendants herein?

Counsel for defendants objects to the complainants' counsel making a general examination of the books of this witness and to examine or make notes of any other entries in these books than those appertaining to the shirts manufactured by the witness, as testified to by him when called as a witness for the defendants, and upon which the complainants' counsel has in this examination examined this witness, or to any other entries in these books than those relating or being of the kind relating to the matter at issue, and
304 defendants' counsel makes this objection for the further reason that the witness objects, as he has here stated, to complainants' counsel examining these books or making notes therefrom as to any other entries excepting bound-bosom shirts, which is the matter here in dispute.

Counsel for complainants states that by the express verbal consent of counsel for defendants he (counsel for complainants) was making a personal and general examination of one of the four books produced by this witness when interrupted by counsel for defendants, counsel for defendants being himself engaged at the time in making a similar examination of another one of these four books and taking notes therefrom, apparently for the purposes of this examination or the cross-examination of this witness, while the witness was engaged at length in examining another one of the four books produced, apparently for the purpose of preparing to answer the question already put upon the record. After observing that defendants' counsel was making notes, apparently for the examination, he (counsel for complainants) caused his stenographer to commence making similar notes and to copy from the book under examination the names of the work people or operators on the shirts or those supposed to be such, whereupon counsel for defendants objected, and finally, at this objection, counsel for defendants put his objection on the record as above. These four books having been produced by the witness under a *subpœna duces tecum* and submitted

to complainants' counsel for his examination both by the
305 witness and by counsel for defendants, counsel for complainants claims the right to make a general examination of the same, and also to make notes of the names of employees and of other matters relating to the manufacture of shirts, the witness not having withdrawn the books from either of the counsel or resumed possession of the same, as counsel for defendants has here stated that he should insist upon the witness' doing. Counsel for complainants further states that no objection was made by the witness either to his examination of the books or to his making notes from the same until prompted so to do by counsel for defendants, and counsel for complainants insists on his right to proceed with the examination and also with the making of necessary notes for the purposes of this case from these books.

Counsel for defendants, replying, denies most emphatically that he has made memoranda from any of the said books produced here by the witness, and states that this witness is not a party to this suit, and is here in obedience to a subpœna to produce his books, and his obedience to this subpœna does not give counsel any more right to examine into the private business of this witness outside of a matter in dispute or to what he has already testified than a like subpœna would give him the right to examine the check and deposit book of the witness produced in answer to a subpœna. Counsel for defendants further replies that the witness has openly here stated
his objections to counsel examining the books of the witness
306 outside of entries relating to bound-bosom shirts, and when defendants' counsel desired to have noted the witness' objection as aforesaid complainants' counsel refused to allow the same to go on the record, and defendants' counsel now asks the witness the following question:

Do you desire counsel to examine generally these books produced by you in answer to the subpœna served upon you?

Complainants' counsel declines to allow the witness to answer the question at the present time, and also declines to submit to the dictation of counsel for defendants, who seeks to prevent the entry of his reply to the misstatements of the foregoing statement. Counsel for complainants did not refuse to allow any statement made by the witness to go on the record. He did, however, object to the delay made by the general talk of the witness, apparently in support of the counsel for the defendants, for the purpose of persuading complainants' counsel to adopt their views of this matter, and, on the contrary, insisted that whatever the witness had to say should be put upon the record, or that otherwise the witness should keep silent, as he seemed to be desirous of doing part of the work of counsel in the case. Counsel for complainants further states that the witness in answering Q. 11 referred the questioner to the books or book referred to in that question, and for some time and until urged to make further answer insisted that counsel for complainants should himself examine the Book No. 4 for himself to get the information

desired, and this book was being examined by counsel for
307 complainants when interrupted by this series of objections. The attention of the court is called to the A. to Q. 11, and also to the fact that this witness is one of the witnesses on behalf of defendants herein and to some extent an adverse witness to complainants, if not an unwilling one; and, finally, counsel for complainants objects to any examination of the witness by counsel for defendants at this time, while the direct examination is in progress, and especially to the prompting of this witness by counsel for defendants by means of so-called questions. Counsel for complainants now insists that the witness shall answer the question, in so far as he has apparently finished the examination of three of the four books.

A. I have finished three books, and in Book No. 4 find one lot of gray flannel shirts, bound—this is on p. 29—to Mr. or Mrs. Nathan, Sept. 10th. I do not know what year it is, but it was prior to 1874. The latter part of the book I see the year 1872 marked on. The latter part of the book is not regularly paged—that is, beyond p. 125 it is not paged. I find the date 1872 38 leaves after the last regularly paged entry. It is a charge to George W. Maxon, Grafton, N. Y. I have not seen any year in the pages prior to that which contains the entry to Maxon. I find no entries of bound-bosom shirts in Books No. 1 and No. 3. I find no other entry besides the one mentioned in Book No. 4.

Q. 14. Who was George W. Maxon, and what is his account an entry of?

Objected to, unless the entry testified to by the witness of gray flannel bound shirts is charged to this individual, as immaterial and irrelevant.

308 A. He made shirts for us. I never saw the man, to my knowledge. There is no bound-bosom shirts there; it is an account of white shirts, for which we furnished the material and he made them.

Here is an account of John Appleton, 1872. I think he made bound shirts for us—woolen shirts. He lived in the city. I am positive he made bound-bosom shirts for us.

The last two sentences objected to as not responsive.

Q. 15. Please point out in the account of John Appleton any description of the work by him as inquired of in Q. 13, and designate the page on which his account is found.

A. I find nothing but the numbers. I don't remember what style of shirt it was, but I remember their being bound. The page of John Appleton's account is not numbered; it is on the 42d page after the regular paging stopped.

Q. 16. Where does John Appleton live?

A. I do not know. I have not seen him for years.

Q. 17. Do you mean to say that the shirts made by John Appleton as just testified to were made in the manner described in your testimony on behalf of defendants herein?

A. He made all sorts of bound-bosom flannel shirts for us.

Q. 18. Question repeated.

A. I think he made the flannel shirt as testified to in my previous testimony.

Q. 19. Did John Appleton ("Appelton") live in the city of New York?

A. He did at that time or somewhere around here.

Q. 20. On the second page preceding that which contains the entry to Appleton I find the name of H. B. Fanton. Did he make any of these shirts for you?

309 Objected to on the ground that the witness has already stated that there are no other entries of bound-bosom shirts in the book referred to by counsel than the one already testified to by him.

A. I think they were all white shirts—for laundry purposes. He has not made any bound-bosom shirts, to my knowledge.

(Witness continues his A. to Q. 13.)

A. On p. 62 of Book No. 2 I find an entry to Miss Taylor, 430 8th Ave. (she worked for Rothschild Bros.), Aug. 23, 1870. She had six dozen gray bound flannel shirts; and again, Oct. 7th, 9 dozen. There is an item on p. 82. It says, Belknap, 10 dozen of gray flannel, bound; but the words "flannel bound" have been erased and the word "Belknap" interlined. The date is Sept. 29, 1870; made by Mrs. Anna Marks, 16 Essex St.

These items contain all the descriptions about binding which I find in the four books.

Q. 21. Please furnish me or state to me the names and addresses of the various persons who made shirts, either flannel or white shirts, prior to November, 1874, for you or your concern.

Objected to unless counsel restricts the question to bound-bosom shirts, this being the kind of shirt in dispute and as to which the witness has testified.

A. I will furnish you the names if I can with pleasure, and the addresses if I can find them.

Q. 22. Do not these four books contain the names and also the addresses of various people who made shirts for you or your concern prior to November, 1874?

Objected to as immaterial and irrelevant unless counsel restricts the question to bound-bosom shirts.

310 A. They do. Perhaps some have not the addresses on.

Q. 23. Please state what those names and addresses are.

Objected to on the same grounds.

A. I do not have them in my head.

Q. 24. Please refresh your memory by an examination of the books and then state them.

Objected to on the same grounds as above stated; and, further, that the witness cannot refresh his memory from this or any other

book unless it is first shown that the entries therein contained are in his own handwriting.

Defendants' counsel requests the witness not to answer this question until the court passes upon his objection.

A. I can't answer, according to the request of counsel.

Q. 23. Question repeated.

A. I decline to answer, because the counsel for defendants instructs me not to answer.

Counsel for complainants gives notice that on the next motion day he will move the court for an order directing the witness to answer this question, to allow an examination of four books here produced, and to allow memoranda to be taken by counsel for complainants therefrom, and requests the examiner to adjourn the examination of this witness, subject to notice either before or after the above-mentioned motions have been heard.

Counsel for defendants states that he is willing now to sub-
311 mit his objections to any of the judges who may now be holding court for a ruling, as has been heretofore done in this case, and to proceed forthwith with the examination of this or any other witness that may be produced, in order to expedite the taking of the testimony by the complainants' counsel.

Counsel for complainants states that it is now ten minutes past one o'clock; that it does not appear that there is any judge at present accessible; that at 2 p. m. of this day another witness is to be examined herein according to previous appointment, and that the attempt to suspend proceedings for the purpose of seeking a hearing at this time is likely to create more delay than it will save, and requests the examiner to adjourn to 2 p. m., as previously arranged.

After recess, at 2 p. m., the witness Ballin appears, bringing three day books, one commencing in June, 1860, and ending in April, 1861; the second commencing in Aug., 1867, and ending in May, 1869, and the third commencing in Aug., 1870, and ending in March, 1872.

The same are marked for identification, of this date, Books No. 1, No. 2, and No. 3.

Examination of the witness resumed:

Q. 6. In your testimony on behalf of defendants herein you speak of shirts made in 1867, '68, and 69. Please point out in the books you have here produced any description of those shirts and of their method of manufacture.

312 A. I see an item on p. 157 of Book No. 2 marked "No. 66, puffed shirts." There is another on p. 159, marked "No. 203, Belknap shirts."

Q. 7. Have you correctly stated the last quotation from p. 159?

A. I have.

Q. 8. Do you find the word "Belknap" on that page at the place indicated?

A. I do not.

Q. 9. Proceed with your A. to Q. 6.

A. The method of manufacture is not stated in the books. Page 160, "Lot No. 128, 3 doz. Belk. shirts." On page 161, "Lot 140, 2 doz. puffed shirts." On page 163, "Lot 66, puffed shirts." On page 168, "Lot 66, 8 doz. puffed shirts." On page 169, "Lot 140, ½ doz. puffed shirts." On p. 170, "Lot 128, 1 doz. Belk. shirts." On p. 186, "1 doz. cambric puffed fronts." On the same page, "2 doz. linen puffed fronts." On page 201, "3 doz. all-lin. puffed fronts." On p. 208, "5 doz. cambric puffed fronts." On p. 236, "Lot 27, 5 doz. cambric puffed fronts." On p. 390, "No. 66, 5 doz. puffed shirts." On p. 432, "No. 239, 1½ doz. Belk. shirts." On p. 495 No. 170, 2½ doz. full-bosom shirts." The date on p. 157 is Jan'y 18, 1868; the date on p. 495 is M'ch 31, 1869. The others are between those dates. Those are all I find on Book No. 2.

Q. 10. Please continue your answer to the same question with reference to Book No. 3.

A. In Book No. 3, on p. 25, "12½ doz. emb. puff. B." On p. 30, "6 doz. emb. puffs." On p. 87, "22½ doz. loose bos." On p. 223, "22½ doz. Full B. cord." That is all. The date of the entry on p. 25 is Oct. 18, 1870; the date of the entry on p. 223 is Feb'y 9th, 1872. The other entries are between those dates.

Q. 11. Are these all the books you have showing how you made shirts prior to Nov. 17, '74, as stated in your testimony herein?

A. I have another book—a manufacturing book—relating
313 to these bosoms, and was looking for it to-day, but could not find it. That comprises all the books.

Q. 12. When can you and will you produce the fourth book you have just mentioned?

A. As soon as I have found it. I will look for it to-morrow, and if I don't find it then I have not got it. If you wish to be notified I will do so.

Q. 13. Have you given all the description of the shirts testified about on behalf of defendants by you that are contained in these books—Book No. 2 and Book No. 3?

A. I have given all the descriptions as they are contained in the books.

Q. 14. Have you no style book or other books containing fuller descriptions of these bosom shirts than you have given?

A. I have a manufacturing book, as I have stated before, which contains a better description, but I cannot find it; and then the description is only in numbers.

Q. 15. How can the description be better if it is only in numbers?

A. Simply by stating the cost of manufacture, as stated in the book, of the various styles of work.

Q. 16. What kind of a shirt was the Belknap shirt mentioned in these books? And in giving your answer please first point out any place in Books No. 2 and No. 3, showing what kind of shirt it was.

A. On p. 432, Book No. 2, 1½ doz. Belk. shirts. I can point out no further description in the book. The Belknap shirt was a woolen checked shirt made generally with a bound bosom.

Q. 17. What do you mean by a bound bosom in that connection; do you refer to the strip at the side of the opening in flannel shirts?

A. I mean by a bound bosom a piece of the same material of which the shirts were made, consisting of either one or two pieces, and then sewed to the edge of the opening in the front of the
314 shirt. The piece or pieces were bound with binding and then sewed to the edge of the shirt, and they were stitched down on the shirt after they were sewed to the edge of the shirt.

Q. 18. How were the puffs arranged in the puffed shirts referred to in the quotations you have made from Books No. 2 and No. 3?

A. They were arranged on each side of a centre pleat and bound on the outside. The puffs went cross-ways.

Q. 19. How wide were these parts by which you say the puffs were bound?

A. About one inch and a quarter.

Q. 20. I place in your hands a shirt marked "Cluett *vs.* Claflin, Complainants' Exhibit Fisk Ruffled-Bosom Shirts, Sept. 27th, 1886, E. S. B., N. P.," and ask you if the puffs were secured by what you call the binding in your puffed-bosom shirts, and fastened to the shirt in the same manner as in this exhibit.

Objected to as leading.

A. No, sir.

Q. 21. How did they differ?

A. They differed in having only one piece on the outside, which was stitched on and turned under, whereas this one has two pieces on the outside—a double piece.

Q. 22. This outside piece in your ruffled-bosom shirt formed a side pleat, did it not, on the outside of the bosom on both sides?

A. It did not.

Q. 23. Don't you consider the outside piece on the exhibit just submitted to you as a pleat?

A. I do not. No; it is no pleat.

Q. 24. Why are not these two pieces—the one in the exhibit and the one in your puffed bosom—pleats, properly speaking?

315 A. I call a pleat, and so does the shirt trade, a fold which can be raised and be visible as a fold, the same as a fold in a dress.

Q. 25. Are not the pieces on the edge of the Exhibit Fisk Ruffled-Bosom Shirt folded?

A. It is folded and so is the binding folded.

Q. 26. Is it not customary or frequent that a pleat is stitched down on the edge after the pleat is formed?

A. I have never seen it done in my experience—never done it nor never seen it.

Q. 27. Will you please give the names of any persons recorded in these books produced by you who have been purchasers of the puffed-bosom shirts you claimed to have manufactured and sold?

A. I will decline to do that unless compelled to do so.

Q. 28. Why do you decline?

A. Because I would not like to subject those people to compulsory court attendance.

Q. 29. I insist on an answer to Q. 27.

A. I decline unless the court compels me.

Counsel for complainants here gives notice to counsel for defendants of motion asking the court to compel the witness to answer the question, such motion to be made at the same time with the motion previously noticed in this record, and that these motions will be based upon the record in this cause.

Q. 30. Please give the names of the persons who made the puffed-bosom shirts mentioned in your testimony this day.

A. We made them—our house.

Q. 31. Please give the names of the operators or persons who put the shirts together, with the address of each.

A. I cannot do so because there is not one now in my employ of the operators of those years.

316 Q. 32. Do these books, Nos. 2 and 3, contain the name or names of any operator or operators or other employees who had to do with the making of these puffed-bosom shirts?

A. They do not.

Q. 33. Have you any books containing the names of such persons?

A. I think not. These are not books of importance which we generally keep.

Q. 34. Did you ever have books containing the names of such persons during the years 1867, '68, and '69?

A. We did.

Q. 35. Where are they?

A. I could not tell. They may be there; but if they are the names of operators who made any particular kind of work could not be identified—could not be remembered.

Q. 36. Have you looked for such books?

A. I have not.

Q. 37. Will you do so while looking for the manufacturing book for which you are to make search?

A. I will, but will state also that the books are simply roll books or time books, simply containing the names of employees and the pay due to them on pay-day, and containing no address.

Q. 38. Who kept these roll books or time books in 1867, '68, and '69, and who kept your other books of that period, as produced here and otherwise?

Objected to as immaterial and irrelevant.

A. The one that kept the time book in 1867, by the name of Orr, is dead. I don't remember his full name. He lived in Brooklyn. I don't know when he died—about fifteen years ago. In 1868 and '69 the time book was kept by Otto Rothschild. I don't know whether he is alive or not. I last heard of him being in St.

317 Louis. I think I kept the other books myself. I may have had an assistant. I don't remember now.

Q. 39. Can you name any person who is now accessible anywhere

who knew your employees of 1867, '68, and '69 and could tell who they were?

A. I ought to know them the best of any one. I could not tell you now. There must be some in town who worked for me.

Counsel for complainants asks the examiner to adjourn the examination of this witness to Wednesday, November 10th, 1886, at 10 a. m., and to notify the witness that he is desired to reproduce the three books produced to-day, and also the additional book mentioned to-day at that time.

The request of counsel is read to witness by the examiner, and his fee is paid by complainants' counsel.

Adjourned to Tuesday, November 9th, 1886, at 2 p. m.

NEW YORK, *November 9th*, 1886—2 p. m.

Met pursuant to adjournment.

Present: Counsel as before.

Mr. HIRAM M. FORD, being called as a witness for complainants and duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation, and have you testified on behalf of the defendants in the suit of Cluett *vs.* Claflin on the same patent which is at issue herein?

A. Hiram M. Ford; aged 49; I reside at Chatham, N. Y., and am by occupation a commercial traveller for A. R. Van Nest &
318 Company, 50 Warren street, New York, dealers in horse clothing. In reply to the second clause of the question I answer yes.

Q. 2. Have you been subpœnaed to appear before Timothy Griffith, Esq., examiner, and to produce certain books containing the record of your shirt business in Chatham, and did you appear and ask to be excused by the ex'r on Friday last?

A. Yes, sir.

Q. 3. Have you been in Chatham since that day, and are you prepared to produce the books called for here and now?

A. I have been in Chatham and will produce books Monday, Nov. 15th, if there are any. I don't know that there are any now in existence.

Q. 4. It seems to appear in your testimony on behalf of defendants herein that some of the books used in your business or those used in the business when it was conducted under your wife's name or under your brother's name were left with your successor or successors, Myron E. Clark or Smith & Clark. Will you recover such books as were so left and produce them, as well as any of the books that are in your custody, on Nov. 15th, as stated in your previous answer?

A. I will if I can. I don't suppose there is a book left. If there are any you are welcome to them.

Q. 5. Did you make any examination when you were in Chatham over last Sunday for the purpose of finding the books called for in the subpœna?

A. I did not.

Q. 6. Why not?

A. Because I did not suppose I was obliged to. I did not read the subpœna and did not know what it called for.

Q. 7. I call your attention to the clause in the subpœna which calls for a "certain book or books containing orders for shirts; also the day book or books, ledger or ledgers, and all other books,
319 by whatsoever name known, containing the records of your business in the manufacture and sale of shirts prior to Nov. 17, 1874, now in your custody, and all other deeds, evidences in writing, which you have in your custody or power concerning the premises." These are the books you are subpœnaed to produce, and for the purpose of enabling you to produce these books this examination will be adjourned, either now or later, to Monday, Nov. 15th, at 2 o'clock p. m., at the same place. Will you be here at that time with such books as may be in existence at this time?

A. Yes, sir.

The subpœna fee is paid the witness by complainants' counsel for the appearance of the witness on Nov. 15th.

Adjourned to Wednesday, November 10th, 1886, at 10 a. m.

NEW YORK, *Nov. 10th*, 1886—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Examination of the witness BALLIN continued:

Q. 40. Have you found the additional book you were requested to produce at the last meeting, and do you reproduce the three books originally produced by you?

A. I have not found the additional book, and I reproduce the three books.

Q. 41. I now repeat Q. 27.

Question 27 read to the witness.

320 A. The same reason exists to-day for declining to answer the question before; for that reason I decline to answer the question.

Counsel for complainants renews the notice already given following Q. and A. 29.

Q. 42. Please give the names of the persons who made the shirts and also the names of the purchasers of the shirts mentioned by you in your answers to Q. 6, 9, and 10.

A. The names of the makers of the shirts it is utterly impossible for me to give. I do not recollect them. The names of the purchasers I decline to give for the reasons stated.

Counsel for complainants in view of the foregoing answer, renews the foregoing notice of motion.

Q. 43. On page 157 of Book 2 and above the item qucted by you

as No. 66, puffed shirts, I find the words "Chicago branch." Are those words the name of the concern or branch to which these 4 doz. puffed shirts were charged?

The witness protests against the complainants' counsel examining the books produced.

If I have no right to protest I wish the above protest to be stricken out.

A. My answer is that was the party to whom these four dozen shirts were shipped.

Q. 44. Question repeated as to the item quoted from page 159 of Book No. 2.

A. The parties named there, "A. Schoenfeld," are the parties to whom the goods were shipped.

Q. 45. What was the address of A. Schoenfeld at that time, and what is it now?

A. At that time it was Coldspring, N. Y.; now it is in Centerville, N. J.

321 Q. 46. Over the quotation from page 160 I find the words "Gutman Bros." Is that the name of the parties to whom lot No. 128 was sold?

A. Yes, sir.

Q. 47. Over the item quoted from page 163 I find the name "F. Ehrlich." Is that the name of the party to whom the goods there mentioned were sold; and, if yea, what was his address then, and what is it now?

A. Yes; his address then was N. Y. city; he is now dead.

Q. 48. The last question repeated as to the name of "Henry Schwartz & Co." from 168 of Book No. 2.

A. Yes; his address was then somewhere in Texas. I think Mr. Schwartz is now dead.

Q. 49. I make the same inquiry as to the name of "F. Ehrlich," as quoted by you on p. 169.

A. I make the same answer as to Q. 47.

Q. 50. The same question as to "Donnelly & Smith," on p. 170, mentioned in A. to Q. 9.

A. Yes; the firm is not in existence. At that time it was at Trenton, N. J.

Q. 51. The same as to the name "T. J. Leary" over the quotation from p. 186, and also the name "S. Rubens" in another quotation from the same page.

A. Yes; Leary's address was then and is now Brooklyn, N. Y. Ruben's address was then N. Y. city. I do not know where he is now.

Q. 52. The same question as to the words "Chicago branch," on p. 201, quoted by you from Book No. 2.

A. Yes; the address was Chicago.

Q. 53. The same question as to the words "Heller & Co., Cincinnati, Ohio," as quoted by you from p. 208.

A. Yes; they were then, and I do not know where they are now.

Q. 54. What do the figures "4.50 * * * 22.50,"
322 in the same line and following the quotation from p. 208, mean?

A. They mean—the first figures, the price per dozen; the second figures, the amount for the total number of dozens.

Q. 55. In your A. to Q. 6 you made a quotation from p. 208 as being a description of the shirts inquired about. I find on the first line, under the name of "Heller Bros. & Co.," the word "fronts," with ditto marks under the same down to and including and below the line on which the quotation "5 doz. cambric puffs" is found. Were these articles shirts or not?

A. They were parts of shirts.

Q. 56. Question repeated.

A. They were not shirts; they were parts of shirts; bound bosoms they were.

Q. 57. As you sold them they did not constitute any part of a shirt, did they?

A. They did.

Q. 58. They were not attached to any part of a shirt, were they, as you sold them?

A. They were not.

Q. 59. Then they did not really constitute any part of a shirt or shirts as you sold them, did they?

Objected to on the ground that counsel cannot cross-examine his own witness.

A. They did constitute part of a shirt.

Q. 60. Did anything else go with these shirts when they were sold except the mere "puffed fronts?"

A. Nothing else.

Q. 61. Did you ever see these five dozen cambric puffed fronts join to and forming a part of any shirt or shirts?

A. I don't know.

Q. 62. Question repeated.

323 A. I don't know.

Q. 63. Were they so joined at any time in your establishment?

A. They were not.

Q. 64. Then if they were shipped to Cincinnati you never saw these puffed fronts again, did you?

A. I don't know. I might have seen them again.

Q. 65. You have no knowledge of ever seeing them again, have you?

A. I have not.

Q. 66. Q. 52 repeated as to the words "Chicago branch," on page 236.

A. I give the same answer as to Q. 52.

Q. 67. Were the 5 dozen quoted from page 236 shirts or only fronts?

A. They were only fronts.

Q. 68. I find on the same line the figures "3.65" and "18.25."

Are these the prices per dozen and the gross amount charged for these 5 dozen cambric puffed fronts?

A. They were.

Q. 69. The same quotation as asked in Q. 52 to the words "Sanger Bros.," over the quotation from page 390.

A. Yes. Their address was Texas and is now. They are at Fort Worth.

Q. 70. Where is the index to Book No. 2?

A. I don't know.

Q. 71. It had an index originally, did it not?

A. I think not.

Q. 72. Why not?

Objected to on the ground that complainants' counsel cannot cross-examine his own witness.

A. I don't know the reason.

Q. 73. I observe that the portion of the back of the book which ordinarily contains the title and sometimes the name of the firm whose business is recorded therein has been cut or in some
324 other manner removed from this book. What was the book originally called—a day book, ledger, or what?

A. A day book.

Q. 74. Can you point out anything about this book or any place where it is stated whose business is recorded in this Book No. 2?

Objected to, as the witness has already stated that these were the books of his firm in answer to complainants' counsel, and the counsel cannot cross-examine his own witness or attempt to disprove his testimony.

A. I can't answer that question.

Q. 75. Why not?

A. I can't answer it. I don't know what to answer that question. I don't know what the question means at all.

Q. 76. Please point out anything in, upon, or about this Book No. 2 that shows whose book it was or whose business was recorded therein.

A. Nothing is contained therein nor in any book which we keep which shows whose business is recorded therein.

Q. 77. Is the statement made in the last answer true as to the other two books produced by you here in answer to the *subpœna duces tecum?*

A. It is.

Q. 78. How do you account for the fact that the title part of the back of this book is removed, while the other parts of the back remain intact or in a good state of preservation?

Objected to on the ground that this witness has been subpœnaed by complainants' counsel to produce these books, which he has done in obedience to said subpœna, and testified in answer to com-
325 plainants' counsel that they were the books of his business during the years 1867, '8, and '9, and by the present line of

examination complainants' counsel is endeavoring to discredit the testimony of his own witness or to cast a doubt thereupon.

A. In the first place, I deny that this book or any of the three books are intact or in a good state of preservation. In account for their dilapidated condition I will state that they have been kept in a box for old rubbish on the top floor of the house where roaches, rats, and mice had access to them.

Q. 79. I call attention to the fact that a portion or portions of the back of the book are intact or in a good state of preservation, while other parts have been cut away or in some other manner removed. Now I ask you if at the upper and lower ends of the back and in the center of the same there are not remaining portions of the back in a good or fair state of preservation, and whether two other portions are not removed where names and titles are usually found.

Objected to on the same grounds, and further that counsel cannot cross-examine his own witness, and has not as yet shown that there were any name or names or writing on the back of the book.

A. I answer that the insinuation that any part of the book has been cut away is false, and the fact that some parts of the back are remaining seems to me that those parts were stronger—Russian leather; the others were mere sheepskin labels.

Q. 80. Question repeated. What I want is the fact and not argument or declamation.

Same objections.

A. I find the book in a bad state of preservation.

326 Q. 81. Question repeated.

Same objections.

A. I answer the same.

Q. 82. Do you refuse to answer the question?

Objected to on the ground that witness has not refused, but has answered the question.

A. I do not. I answered to the best of my ability and knowledge.

Q. 83. Please examine the book again and perfect your knowledge as to its present condition and then answer Q. 79, which the examiner will again read to you.

Objected to on the grounds stated to Qs. 78 and 79.

A. I answer that neither part of the back is in a good state of preservation. Some parts of the back are wanting, for reasons stated——

Complainants' counsel here objects to the statement of "reasons" by the witness and to the counsel for defendants giving instruction and encouragement to the witness putting "reasons" on the record. Further objection is made to the signaling back and forth between the witness and defendants' counsel at this and other parts of this examination.

Defendants' counsel states that the assertions of complainants' counsel as to any signaling between witness and himself is utterly false and a base, malicious, and uncalled-for fabrication on his part, and

requests the examiner to certify to the court as to the truth of
327 this assertion, and further states that this witness is here without counsel and was about to give the reason of his last answer when complainants' counsel stated and refused to allow him to give his reason, whereupon defendants' counsel stated to the witness that he had a perfect right to give his reasons after answering the question, and now again states to the witness that if he so desires he can give his reasons.

Complainants' counsel states that not only did the witness signal to counsel for defendants, but sought to communicate with him otherwise, and counsel for defendants replied to both the signal and to other communications from the witness. Notwithstanding these facts, which are perfectly well known to counsel for defendants, he prefaced his last statement on the record with the words "You lie," addressed to counsel for complainants, and several times repeated it, and the attention of the court is called to this unprofessional conduct on the part of the solicitor for defendants, who is here on the part of defendants. Complainants' solicitor also states that similar language was used by this solicitor at least twice before during the taking of testimony in this case, one of these instances having occurred during the taking of testimony before Mr. Griffith, the present examiner, and notice is here given to the solicitor for defendants that if this line of conduct is repeated the matter will be taken before the court forthwith for its action.

Counsel for defendants, owing to the untrue aspersions cast
328 upon his character as an attorney or solicitor, requests that the examiner be present during the entire taking of the testimony herein.

By the WITNESS: I wish to state that no signalling of any kind has been going on between myself and counsel for defendants, and what complainants' counsel considers a signal was at the point where I wanted to give my reasons—was the raising of my finger where I was interrupted by the objection of complainants' counsel.

The examiner repeats Q. 83.
Witness continues:

A. Some parts of the back are wanting for reasons stated before.

Recess is here taken till 2 p. m.

After Recess.

Counsel for complainants requests that while the examination is proceeding further with reference to Books Nos. 1 and 3 his assistant be permitted to look at No. 2 for counsel for complainants and take memorandums of the names of the parties found therein in whose accounts the puffed or Belknap shirts appear to be charged.

Defendants' counsel states that this witness, at the request of com-

plainants' counsel, has gone through the three books produced here to which the above request refers, and in answer to his questions has given the desired information sought for by said request, which said information appears in answers to Qs. 6, 9, and 10, and therefore objects to the request or to the making of any notes of
329 any entries contained in said books or of any other matter contained in said books not appertaining to the matter in dispute.

The witness objects to the perusal of the books and considers himself in the possession of the same.

Q. 84. Do you refuse to allow me to make further examination of these books?

A. I do.

Solicitor for complainants gives notice to the solicitor for defendants of a motion for an order to punish this witness for contempt of court in refusing to allow further examination of the books produced under the *subpœna duces tecum* duly served upon this witness. The motion will be made on the coming motion day, and will be based on the record and the papers filed in this case.

Complainants' solicitor requests the examiner to adjourn this examination until Friday, Nov. 12th, at 10 a. m., to give time for the production of additional witnesses on behalf of complainants herein.

By the WITNESS: I have brought these books in answer to the subpœna and at the request of the counsel in order to testify therefrom. I have done so, and never gave permission to the counsel to peruse these books, as he has done. They contain items which I would not like to have examined by everybody, as they relate to the privacy of business.

Counsel for defendants requests the witness to permit and allow complainants' counsel to see these books in so far as they
330 relate to the testimony herein given by the witness and covering the items of puffed and Belknap shirts, as testified to by him.

By the WITNESS: I notice that Mr. Skilton goes through the book from page to page seemingly looking at every entry, and hence I objected to his personal examination of them. I do not object to Mr. Skilton examining those items to which I testified.

Solicitor for complainants replies that he declines to accept permission and privilege to examine the books produced under the *subpœna duces tecum*, coupled with any limitation that will prevent any necessary examination of these books, to enable him (solicitor for complainants) to ascertain whether all the evidence bearing upon this case and contained in these books has been discovered and brought forward by the witness, or to verify the accuracy of the testimony given by the witness—that is, by this witness; and it is further claimed that the right of the complainants to have an examination made of these books extends to the entire contents of

these books in so far as they relate to the manufacture of shirts by this witness, as recorded in these books and covering the period of 1867, '68, '69 or any other period embraced in this testimony of this witness on behalf of defendants herein, and also extends to the taking of memoranda therefrom of the names of parties purchasing the shirts manufactured by the witness and the names of parties who made shirts for the witness during the period above named.

331 Counsel for defendants, replying, states that when this witness was called by the defendants he was cross-examined by James A. Skilton, Esq., the present counsel, who is conducting this examination, and, although he commenced to cross-examine this witness in relation to the books in question, he refrained from carrying on the said cross-examination, though ample and adequate opportunity was afforded him so to do; but as he has now called this witness for and on behalf of the complainants, and the witness having answered and given the desired information, the complainants are bound by his testimony, and cannot cross-examine him or seek from him or the books to which he has testified any evidence or matter whatsoever tending to throw any doubt or discredit, as the statement above made by counsel for complainants intimates.

The witness here declines to grant complainants' counsel the matters requested by him in his last statement unless ordered by the court so to do.

Adjourned to Friday, November 12th, 1886, at 10 a. m.

332 NEW YORK, *Nov.* 12, 1886.

Adjourned to Saturday, November 13, 1886, at 11 a. m.

(Dictated.)

NEW YORK, *Nov.* 13, 1886.

Timothy Griffith, Esq., examiner.

DEAR SIR: Please put the following statement upon the record in this case:

In view of the fact that Judge Shipman, on hearing the motion herein, directed that the written order be prepared to be submitted to him for signature on Monday next, the 15th of November, the solicitor for complainants requests that the further examination of witnesses herein be adjourned until Monday, the 15th of November, 1886, at 2 p. m.

Please make the adjournment accordingly, and I will notify the solicitor for defendants to that effect.

Yours truly,

JAMES A. SKILTON,
Per E. S. B.

NEW YORK, *Nov.* 15, 1886—2 p. m.

Met pursuant to adjournment.
Present: Counsel as before.

Examination of the witness, HIRAM M. FORD, continued:

Q. 8. Did you visit your home at Chatham, Columbia Co., last week and are you prepared to produce the books called for in the *subpœna duces tecum* served upon you?

A. I did, and cannot produce any books because I have none.

333 Q. 9. What has become of those books?

A. I do not know.

Q. 10. What effort have you made to ascertain what has become of them?

A. By asking Mr. Clark if he had any of my old books in his possession and his replying to me that he had not.

Q. 11. Is that all the effort you have made to find them?

A. It is.

Q. 12. You testified when called on behalf of the defendants herein that some of these books had been in the possession of your family of children. What efforts have you made, if any, to ascertain what has become of these books?

A. My wife told me they were destroyed.

Q. 13. Did you make any search or effort to ascertain whether her statement was true?

A. I did not.

Q. 14. Why not?

A. Because I don't think it necessary.

Q. Why not necessary?

A. Because I believe my wife knows more of what is in the house than I do.

Q. 16. Did your wife inform you when they were destroyed?

A. She did not.

Q. 17. How long ago do you understand they were destroyed?

A. I am unable to say.

Q. 18. When did you last see them?

A. I cannot say.

Q. 19. About how long ago?

A. In the neighborhood of six years.

Q. 20. When did you see Mr. Clark and ask him about these books, as stated?

A. Saturday, 13th inst.

Q. 21. Can you describe the books which your wife said were destroyed?

A. I cannot.

Q. 22. What books did you ask her about when she said they were destroyed?

334 A. Old account books.

Q. 23. Please give the exact words you used in addressing her on the subject.

A. "Are there any of my old account books in the house?"

Q. 24. And what were her words in reply?

A. "No; the children have used them all up."
Q. 25. Was there any further conversation on the subject?
A. No, sir.
Q. 26. Did you ever have any other account books except those relating to your shirt business in Chatham?
A. No, sir.
Q. 27. Did your wife understand that your question referred to those books—that is, the books of the shirt business in Chatham in your name, your brother's name, or your wife's name?
A. My wife understood that they were my old account books.
Q. 28. Covering what period or term of years?
A. I cannot say.
Q. 29. Covering a period prior to January 1, 1875?
A. In that neighborhood.

Solicitor for defendants objects to the testimony of this witness given here to-day on the grounds that the same is immaterial, incompetent, irrelevant, and cross-examination of complainants' own witness, and here gives notice that at the proper time and place he will move to strike the same from the records of this case.

Cross-examination waived.

H. M. FORD.

Sworn before me—

TIMOTHY GRIFFITH, *Examiner.*

Adjourned to Wednesday, November 17th, 1886, at 10 a. m.

335 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEORGE CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

Please take notice that we shall proceed to take proofs in rebuttal for final hearing on the part of the complainants in the above-entitled suit, under the 67th rule in equity, before Edward S. Berrall, notary public, special examiner by consent herein, at his office, 115 Broadway, New York, on Saturday, November 13th, 1886, at 11 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day at such time and place and without further notice.

Dated New York, November 13th, 1886.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants, and Louis C. Raegener, Esq., of counsel.

336 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

Testimony in rebuttal taken on the part of complainants under and pursuant to notice before Edward S. Berrall, notary public, special examiner by consent herein, at his office, No. 115 Broadway, New York, on Saturday, November 13th, 1886, at 11 o'clock in the forenoon.

Present: James A. Skilton, Esq., solicitor for complainants, and David Tim, Esq., solicitor for defendants, and Louis C. Raegener, of counsel.

JAMES A. SKILTON, a witness produced on behalf of complainants, being duly sworn, deposes and says:

The patent involved in this litigation was granted on the 17th day of November, 1874. On the 18th day of December, 1874, the firm of Herrmann, Aukam & Co., then of No. 115 and 117 Franklin street, New York city, wrote a letter to Messrs. Geo. B. Cluett, Bro. & Co., of Troy, asking for a license under that patent. Their letter of that date I hold in my hand, and it has been in my possession ever since June or July, 1875.

Letter referred to is offered in evidence on behalf of com-
337 plainants and is marked Complainants' Exhibit Herrmann, Aukam & Co. Letter of December 18, 1874, E. S. B., Sp. Ex., November 13, 1886.

There had been previous to the 18th day of December, 1874, some correspondence between Geo. B. Cluett, Bro. & Co. and Hermann, Aukam & Co. on the same subject, and there was also further correspondence after that date—December 18, 1874. (As it has been previously stated by other witnesses on behalf of complainants herein, and, as I am informed and believe, most if not all of the papers, of the letter-books, and documentary records of Geo. B. Cluett, Bro. & Co. were destroyed when their factory was burned, I believe, in 1880). My attention was first called to the matter in a letter addressed to me by Robert Cluett on the 7th of June, 1875, which I will offer in evidence. In that letter I was informed that the firm had granted an exclusive right to make and sell the bosom covered by the bound-bosom patent to Herrmann, Aukam & Co., and that a large concern in the city of New York were threatening to infringe the same or preparing to do so and directed to give the matter my immediate attention.

The letter of June 7th, 1875, is offered in evidence on behalf of complainants and is marked Complainants' Exhibit Cluett, June 7, '75, Letter, E. S. B., Sp. Ex., November 13, 1886.

I gave the matter immediate attention, and subsequently visited the city of Troy in connection therewith. While there I made

hurried copies of the letters addressed to Herrmann, Aukam & Co. connected with this matter and found in the letter book of Geo. B. Cluett, Bro. & Co. There was a letter of December 11, 1874; one of December 15, 1874; another of December 18, 1874; one of December 19, 1874, and also one of December 29, 1874.

338 The copies of the letters of the dates just mentioned and then made by me have been in my possession ever since they were made.

The copies referred to are offered in evidence on behalf of complainants and are marked Complainants' Exhibit Cluett Letters, December 11, December 15, December 18, December 19, December 29, 1874, E. S. B., Sp. Ex., November 13, 1886.

I also have in my hand a single sheet of paper, which purports to be a copy of a letter to Messrs. Herrmann, Aukam & Co. from Geo. B. Cluett, Bro. & Co., dated December 19, 1874, with the addition of a pencil memorandum. This copy was sent to me at my request by Geo. B. Cluett, Bro. & Co. in June or July, 1875, and the pencil "mem." was added as an explanation to me to aid in the preparation of the license to Herrmann, Aukam & Co., which has already been put in evidence in this case.

The last-mentioned copy is offered in evidence on behalf of complainants and the same is marked Complainants' Exhibit Cluett Copy Letter, December 19, 1874, and Mem., E. S. B., Sp. Ex., November 13, 1886.

Solicitor for defendants objects to the foregoing copies on the ground that they are not proper evidence—to all copies of Cluett's letters—and gives the usual notice.

339 The "large shirt-house" referred to in the Cluett letter of June 7 referred to the house of Messrs. Rothschild, Bro. & Gutmann.

This testimony is objected to on the ground that it is incompetent, immaterial, irrelevant, and not properly proven.

To the Cluett letter of June 7th I replied, after calling on Herrmann, Aukam & Co., that it was reported through a sewing girl, who was working in the factory of Rothschild, Bro. & Gutmann, that they were preparing to put out an infringing shirt, but had not yet done so; that I had seen the girl; that I was to have daily reports, one of them on the following day; that I had advised Mr. Herrmann that his information did not yet warrant attack and encouraged the securing of further evidence. My letter was dated June 8, and my statements are made after refreshing my memory by an examination of my letter book and the letter-press copy of that letter therein. I subsequently called upon Rothschild, Bro. & Gutmann, whose place of business was No. 46 and 48 Leonard street, New York, and gave them a verbal notice of the patent No. 156,880 and requested them to desist from the infringement thereof. Subsequently I addressed Rothschild, Bro. & Gutmann a letter, bearing date August 6, 1875, with which I handed them a copy of the speci-

fication and drawing of the patent No. 156,880, notified them that I was the attorney of the owners of the patent; that I was informed the firm were preparing to infringe or had already infringed the patent, and that I was authorized to request them to respect the rights conferred by the patent by ceasing to use the invention described therein. This letter was also copied in my letter book, and I have refreshed my recollection by an examination of the same. Mr. Herrmann did not furnish me with any samples of the alleged infringement of Rothschild, Bro. & Gutmann, and
340 when I called upon Rothschild I had no further evidence than the mere statement of suspicion before referred to. My first call upon the Rothschild concern was made after waiting several days for the sample of the infringement which I had called for, and was on the 3rd of August, 1875. At the time when I gave Rothschild, B. & G. the verbal notice they professed a desire to avoid trespass on the rights of others—desired me to point out the articles in their stock, which I declined, saying that we were thoroughly informed of what they were doing and must content ourselves with pointing out the patent infringed and exhibiting the same. They further said that they were acting under a patent, either their own or that of some other person. While waiting for my interview with the firm I examined a considerable portion of the sample boxes in the salesroom, but saw no shirts which were even a near approach to infringement, according to my opinion. At that time I saw but had no extended conversation with V. Henry Rothschild, but did have an extended conversation with Mr. Gutmann. I wrote Messrs. George B. Cluett, Bro. & Co. on August 3d, 1875, stating these facts, and I have refreshed my memory by an examination of my letter book and the letter-press copy of the letter, and I remember the occurrences perfectly, independent of the statements made in that letter. On the same day I notified Hermann, Aukam & Co. that I had both verbally and by written notice called the attention of Rothschild, Bro. & Gutmann to the alleged infringement, and I also requested Hermann to give me the names of any other infringers, and stated that I would thereupon pay them attention. I subsequently tried repeatedly, and several other parties tried under my direction, to obtain samples of the alleged infringing shirt said to be made and sold by Rothschild, Bro. & Gutmann, but in vain. No such shirt was ever produced or exhibited
341 to me or delivered to me, or ever came under my notice, and the different members of the firm of Rothschild, Bro. & Gutmann frequently assured me that they were making no infringing shirt; that they did and would respect the patent, and that they would like to have a license to manufacture and sell under the same; and they caused me to communicate with Geo. B. Cluett, Bro. & Co. for the purpose of obtaining such license, but no such license was granted, for the reason that under the terms of the license to Herrmann, Aukam & Co. it was necessary to obtain the consent of the last-mentioned firm before such license could be granted without violation of the agreement of the Cluetts in that license, and Mr. Herrmann peremptorily objected to the licensing of that particular

firm, although he was willing that the firm of Fisk, Clark & Flagg and one other firm should be licensed, the plan of both of the Cluetts and of Herrmann, Aukam & Co. being to limit the manufacture and sale of the invention to three concerns only for the whole United States. As late as December 15, 1875, I reported to Herrmann, Aukam & Co., in a letter of that date, that I had made several attempts to purchase the shirt said to be made by Rothschild, Bro. & Gutmann, through my furnishing man in Brooklyn, who had at last been compelled to give up the attempt to find such a shirt in the stock of that firm; that he had reported to me that he not only could not find such a shirt among the samples, but that when he called for and described it they said they had no such shirt. I further requested Herrmann, Aukam & Co. to either buy one of the shirts themselves or to send to Texas for a sample of the alleged shirt, of which they had heard in that remote region as being an infringement, and I called upon them to act promptly in the premises. No such shirts were ever produced or brought under my notice by Herrmann, Aukam & Co. or by anybody else.

342 On the 21st of September, 1875, I notified Cluett, Bro. & Co. that my furnishing-goods man from Brooklyn went to Rothschild, Bro. & Gutmann's store, but utterly failed in getting hold of the shirts said to have their invention in them; that he had told me he had searched their samples and then called for them by the name given by Hermann, Aukam & Co., and finally showed them what he wanted, but had failed in procuring any such shirt. This furnishing man died a year or two after that time, I think in 1876 or in 1877, and he made no written reports to me, but only made repeated verbal reports of what he had done. He was, as I understood, a customer of Rothschild, Bro. & Gutmann, kept a large gentlemen's furnishing-goods store on Fulton avenue, Brooklyn, and had done so for many years. He was a reliable man, and I believe that he made the attempts stated, and that he failed as stated for the reasons stated. On the 30th day of August, 1875, I notified Geo. B. Cluett, Bro. & Co. that I had called and found Rothschild out, my purpose being to give Mr. Rothschild the reply of the Cluetts to his request for a license under this patent; that I then called on Hermann and reported to him that Rothschild had asked for a license under this patent; that I had referred his request to the Cluetts; that they had referred me to the understanding with him, Hermann; that I called to ascertain on what goods Rothschild wanted to use the patent, but had found him not in, and that I had come to him, Hermann, to let him know about it squarely and get his views on the subject; that Mr. Hermann had replied as follows: "My position is this: I am unwilling that any other Jewish house should have a license, as they could and would hurt my trade; but I am willing an American house (naming two) should be licensed. If the Rothschilds are licensed I shall throw up and quit." I further reported to the Cluetts that I then returned and found Rothschild in, and reported the result of my com-

343 munication with them, the Cluetts, and with Herrmann; whereat he, Rothschild, said that he was sorry I had told

Herrmann, and that I replied that we were bound in good faith to do so. In these subsequent conversations my talk was mainly with Mr. V. Henry Rothschild himself, and I was repeatedly assured by the different members of the firm that they were making no bound-bosom shirt, and would commit no infringement of the patent. During the latter part of the year 1875 they employed me as solicitor and as counsel in patent matters after a most explicit statement on my part that I could not act for them in any matter or in any manner having a bearing upon the Cluett bound-bosom invention, and their assurances were such and their conduct was such that I accepted and believed their statement that they were not infringing, and that if they desired to use the invention they would purchase the right to do so in a proper and straightforward manner. In the meantime Mr. Herrmann was writing occasional letters to the Cluetts, complaining of infringement of the patent by Rothschild, Bro. & Gutmann and by other parties, but never, so far as I am now able to recall, producing a single sample of the alleged infringement. Whereupon the Cluetts would write me on the subject, and I would start out and do everything in my power to get sight of these alleged infringements, each time with the same result.

Recess at 1.15 to 2 p. m.

After recess witness resumes:

On the 29th of November, 1875, I wrote a letter to the Cluetts in which I spoke of my extraordinary efforts to obtain evidence of infringement, but so far without result, no infringing article being placed in my hands for action. Prior to that date, to wit, on the 20th of November, 1875, I wrote a letter of unusual length,
344 stating what opportunities I had myself for ascertaining what Rothschild, Bro. & Gutmann were making and selling; that they assured me that they were not using the bound bosom or infringing the patent; that they exposed their goods and proceedings freely to my notice; that I had insisted on having an explicit understanding with them on this matter before I would accept any business from them, and at no time did I ever see any infringing article in their establishment or have reason to believe that they were not acting with perfect candor and truthfulness in stating that they were not infringing, were not intending to infringe, and were not making the bound-bosom shirt in any form.

In the earlier part of my contract with the firm of Rothschild, Bro. & Gutmann, however, there was a hesitation or reservation of short duration arising out of the asserted belief on the part of the firm that they could obtain information from Philadelphia which would warrant them fully in making use of the bound bosom, and they asked for delay of proceedings on my part until they could satisfy themselves whether Philadelphia parties could furnish evidence to sustain that view of the matter. Subsequently I was informed by the firm that they had consulted the Philadelphia parties, who had informed them that there was no grounds whatever on which to base that claim, and they thereupon declared that they were satisfied as

to the validity of our patent and the novelty of the invention, and sought to obtain a license granting them the privilege of using the same, as previously stated.

The facts recited in all of the foregoing deposition are fully and clearly within my own recollection, and I have recently made an examination of the entire correspondence relating to the matter, including letter-press copies of my own letters addressed to various parties, and I believe I am justified in stating that from the
345 date of the patent No. 156,880 the rights of the patentee were respected by the public for several years; certainly during the period while I was in charge of the patent, which was not less than two years. Subsequently I understood that the patent and the protection of the rights of the assignees thereunder was in charge of the home attorney of the Cluett Brothers, and it was reported to me from time to time that he was succeeding in preventing infringing articles from being made and put upon the market, in some instances parties who had contemplated infringing desisting therefrom, and expressly acknowledging the rights covered by said letters patent.

As I was informed, these bound bosoms were sold by Herrmann, Aukam & Co. throughout the country largely. That firm paid me personally a license fee or fees to the amount of one hundred dollars at the time when the license was perfected and the copies thereof exchanged. My information was derived on this subject in part from Messrs. Herrmann, Aukam & Co., who were also clients of mine during this time, and from Messrs. Cluett, Bro. & Co. The reports under the license were subsequently to the execution of the license made directly to the Cluetts. I hold in my hands a postal card received from a member of the firm dated September 7, '75, stating as follows:

"Our N. Y. licensees report the sale of 800 dozen for the past month. I simply acquaint you with the fact. If of any use you will know it. I had overlooked the fact that Rothschilds were customers of our licensees.

"Yours, &c., J. W. A. C., *Troy.*"

This card is offered in evidence on behalf of complainants, and is marked Complainants' Exhibit Cluett Postal Card, September 7, '75, E. S. B., Sp. Ex., November 13, 1886.

346 The following letters are offered in evidence on behalf of complainants, through copies of the same taken from my letter book, with the understanding that my letter book or books will be produced at the hearing if required for examination as to these letters, the originals of which, in so far as they were addressed to Geo. B. Cluett, Bro. & Co., are believed to be destroyed:

1st. The letter of June 8th, '75, to Robert Cluett, and the same is marked Complainants' Exhibit Skilton Letter, June 8, 1875, E. S. B., Sp. Ex., November 13, 1886.

2d. The letter of August 3, 1875, and the same is marked Complainants' Exhibit Skilton (August 3, 1875) Letter, E. S. B., Sp. Ex., November 13, 1886.

3d. The letter of August 6, 1875, and the same is marked Complainants' Exhibit Skilton-Rothschild Letter, August 6, 1875, E. S. B., Sp. Ex., November 13, 1886.

4th. Another letter of August 6, 1875, addressed to Herrmann, Aukam & Co., the previous letter being addressed to Rothschild, Bro. & Gutmann, and the same is marked Complainants' Exhibit Skilton-Herrmann Letter, August 6, '75, E. S. B., Sp. Ex., November 13. 1886.

5th. The Skilton letter of August 30, 1875, addressed to Geo. B. Cluett, Bro. & Co., and the same is marked Complainants'
347 Exhibit Skilton-Cluett Letter, August 30, 1875, E. S. B., Sp. Ex., November 13, 1886.

6th. The Skilton letter of November 20, 1875, addressed to Cluett, Bro. & Co., and the same is marked Complainants' Exhibit Skilton-Cluett Letter, November 20, 1875, E. S. B., Sp. Ex., November 13, 1886.

7th. The Skilton-Cluett letter of November 29, 1875, and the same is marked Complainants' Exhibit Skilton-Cluett Letter, November 29, '75, E. S. B., Sp. Ex., November 13, 1886.

8th. The Skilton-Cluett letter of December 11, 1875, and the same is marked Complainants' Exhibit Skilton-Cluett Letter, December 11, 1875, E. S. B., Sp. Ex., November 13, 1886.

9th. The Skilton-Herrmann Letter of December 15, 1875, and the same is marked Complainants' Exhibit Skilton-Herrmann Letter, December 15, 1875, E. S. B., Sp. Ex., November 13, 1886.

10th. The Skilton-Cluett Letter of December 21, 1875, and the same is marked Complainants' Exhibit Skilton-Cluett Letter of December 21, 1875, E. S. B., Sp. Ex., November 13, 1875.

Solicitor for defendants, having by consent and agreement reserved the right to enter a general objection to the testimony of this
348 witness from and after the last stated objection made by solicitor for defendants, hereby objects to all of the testimony given by this witness from and after said objection, upon the grounds that the same is irrelevant, improper, incompetent, immaterial, and hearsay; and also objects to all of the letters offered in evidence from and after said objection on the grounds that they are improper, secondary, immaterial, and irrelevant, and here gives notice to solicitor for complainants that at the proper time and place he shall move to strike the same from the record of this case.

Solicitor for complainants request the examiner to mark each one of the letter-press copies of the letters just offered in evidence as exhibits in the case on behalf of the complainants, the same to be produced at the hearing herein, and states that the letter-press copies of these letters are offered as the best evidence, the originals having been destroyed, and that the copies are offered in part as a matter of convenience and in order to avoid an improper mutilation of the letter books of complainants' solicitor.

The direct testimony of the witness, Mr. Skilton, is here closed. Cross-examination waived.

Solicitor for defendants here enters a general objection to the en-

tire testimony of this witness, as also to the letters produced, on the grounds just stated, and here gives notice to solicitor for the
349 complainants that at the proper time and place he will move the court to strike the entire testimony from the records of this case.

JAMES A. SKILTON.

Subscribed and sworn to before me this 13th day of November, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Adjourned at 3.40 p. m., subject to notice by letter.

NEW YORK, *November* 16, 1886—11 a. m.

Met pursuant to adjournment and notice.

Present: James A. Skilton, Esq., solicitor for complainants; David Tim, Esq., solicitor for defendants.

J. W. ALFRED CLUETT, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. J. W. Alfred Cluett; age, 52; residence, Troy, New York; occupation, manufacturer of shirts, collars, and cuffs.

Q. 2. Are you one of the complainants in this suit?

A. I am.

350 Q. 3. Have you any recollection of the manufacture by your firm of the so-called "Jeddo cord" and "Roman cord"?

A. I have.

Q. 4. Have you any means of fixing the date or dates of any such manufacture of these two cords; and, if yea, will you please produce them?

A. I have the cost book and I here produce it.

Q. 5. In general, what period of time is embraced in the record found in this cost book—what years?

A. My earliest date on the cost book is 1869; it might be extended through four or five years.

Q. 6. Did this cost book exist prior to the fire in the Federal-street factory?

A. It was in use up to March, 1880. No, I want to amend that; it did exist prior to the fire.

Q. 7. Please state how this book happened to survive the fire in which the Federal-street factory was consumed.

A. It was taken out of the safe after the fire.

Q. 8. Where was it during the fire?

A. In the safe.

Q. 9. Please point out anything in the book referred to that may fix the date or dates of the use of the "Jeddo" and the "Roman" cords.

A. The book is in my handwriting and was under my care. I

refer to page 204 to No. 262, ladies' collar, on which was put both the "Jeddo" and "Roman" cord trimmings. The memorandum stands thus: "Jeddo" and "R. cord Nilsson." This follows "No. 262," the letter "R" standing for the word Roman. On No. 263, ladies' collar, same page, was applied the Roman cord, the memorandum "R. c'd" being an abbreviation of "Roman cord." On page 202 I find the Roman cord applied to the following stock numbers of ladies' collars: 222, 225, 226, 227, and on 246 I find both the Jeddo edge and Roman cord applied. On page 252 I find stock number "26, ladies' cuff, Jeddo edge and R. c'd Nilsson."

351 These cuffs were made to match the Nilsson collars, and on same page number "49, ladies' cuff, bl'k Roman cord," and on page 252 I find the memorandum, "white cuff, buff R. C.," R. C. being an abbreviation for Roman cord, buff referring to the color of the beading strip in the Roman cord; on the same page I find also number "62, white R. C. cuff," R. C. being an abbreviation of Roman cord. The buff Roman cord referred to is like that shown in Complainants' Exhibit Roman Cord, 1868–'9. The Roman cord referred to in this book is the Roman cord also shown in Complainants' Exhibits Three Roman-Cord Collars, Complainants' Exhibit Roman Cord, and in the buff Roman cord previously mentioned. The Jeddo cord referred to in this book as Jeddo edge was like the Complainants' Exhibit Jeddo Edge, as I find by examining the several exhibits which have just been submitted to me. I also find on page 256 of the book "ladies' cuff, 49, bl'k Roman cord."

Q. 10. What are the dates of the different items quoted by you from this book?

A. I arrive at the dates of these quotations from the fact that they are mainly written in purple ink, this ink being only used during a certain period. On page 12 of the book appear, under date 1869, entries in purple ink. On page 14 and page 16, under date 1870, entries in purple ink appear. On page 18, dated 1871, the entries are in black ink or pencil, and the use of purple ink appears to drop out on that date. The quotations made from page 202 are, with one exception, made in purple ink. The numbers 262, 263, on page 204, are made with purple ink. The memoranda referred to on page 252, namely, ladies' cuffs Nos. 55, 62, are in purple ink. From these memorandums I fix the dates to be between the months of November, 1869, down to and including June, 1870, but not extending to 1871.

352 Q. 11. Please state whether or not this book contains entries showing the use of the Roman cord upon any other articles except the collars and cuffs to which you have already referred.

A. It does. I find on page 290 the following memorandum in purple ink: "R. cord, 2-ply bosom, long," following number "417," together with the mention in the items of cost, "R. C.," meaning Roman cord, and "on R. C.," referring to the process of applying the Roman cord to the bosom.

Q. 12. Under what account is this last item found?

A. Under the heading "opera bosoms," meaning detached bosoms.

Q. 13. On page 291 of this book, containing a part of the same account, "opera bosoms," I find the word "royalty." What does that word mean and what does it refer to?

A. It refers to an arrangement made with C. F. Pidgin to manufacture under license from him his patent detached bosom; according to which arrangement we paid him a royalty of 12 cents per dozen.

Q. 14. What was the date of the Pidgin patent?

A. About 1867.

Q. 15. Can you describe the invention?

A. Yes. The invention embraces a detachable bosom, shown in letters patent No. 58131, dated September 18, 1866, a copy of the drawing and specification of which is before me.

Q. 16. About how long after the date of the issue of the Pidgin patent did you commence to make the Pidgin bosom?

A. About three years.

Q. 17. Did you have a regular license; and, if so, will you please produce it?

A. We have a regular license and it is in our possession, but it is mislaid, and at this time I am unable to produce it, although special search had been made for it.

353 Q. 18. Were the bosoms made under the Pidgin license invariably made only in accordance with the drawing and specification of that patent? And if any variations were made therefrom please state what variation was made, and point out any item in the account in which the same is recorded.

A. I call attention, on page 290, to No. "418, full-plait bosom," which was not run, turned, and stitched around the edge, as in the usual method, but was bound round the edge. In the items of cost, on line corresponding to 418, is the memorandum "bind 18," meaning the cost per dozen of binding. Under the heading "turn" is a blank space, showing that the bosom was not turned, and under the heading "St.," standing for stitched, is the memorandum "fastened, 6," implying that we paid six cents a dozen for fastening the ends of the binding.

Q. 19. Please explain the headings of the different columns of this "opera bosom" account.

A. The first column refers to the number, the second to percentage of profit, the third to the selling price, the fourth to the cost price, the fifth to the goods in front of bosom, the sixth to the goods composing the back of the bosom, columns seventh and eighth having no heading, being left for general memoranda; column ninth for name and general designation of the article, column ten gives price paid for plaiting and running, column eleven refers to amount paid for plaiting, column twelve to amount paid for stitching plait, column thirteen to amount paid for running back and front together, column fourteen to amount paid for turning united pieces right side out after running, column fifteen for stitching round the edge of bosom, column seventeen for making the button-holes, column eighteen for laundering the bosom, column nineteen for box carton containing bosoms, column twenty for royalty paid the patentee,

Mr. Pidgin; column twenty-one for cutting and extra ex-
354 penses, columns twenty-two, twenty-three, twenty-four, and twenty-five for memorandums as required; column twenty-six for total cost of manufacturing, column twenty-seven for the stock number of the articles.

Q. 20. Have you any further answer to make to Q. 18?

A. I find item "G 18," "heavy lin. bd. ed. bosom," and item "G 19," ditto under the words just quoted.

Q. 21. Can you produce a sample showing how the "opera bosom" referred to in this account, on pages 290 and 291, were made—where they were turned, as indicated under the heading "turn," in column 14 of the account?

A. I can and do. I produce a specimen of the Pidgin bosom as originally run, turned, and stitched round the edge.

Q. 22. Please explain how this particular form of bosom was made.

A. The front and back were laid together and then run round the edges—that is, stitched round; afterwards turned right side out, and then stitched round the edge, as shown in this sample which I have produced.

Q. 23. If you have a sample showing how the bosom under the number 418 was made, please produce it.

A. I have a sample and produce it.

Q. 24. Please explain how this sample was made in comparison with the previous one.

A. This sample, instead of being made by the process of stitching, turning right side out and stitching the edges, is made by placing the front and back together, the front right side out, and closing in the edges with a surrounding binding.

Counsel for defendants having reserved the general right
355 to enter a general objection to the testimony of this witness, objects to that part of his testimony here given from Q. 12, on the ground that the same is irrelevant, immaterial, and incompetent, and here gives notice that at the proper time and place he will move to strike the same from the record.

Solicitor for complainants here offers in evidence on behalf of complainants the book referred to in the testimony of this witness, and also the two samples produced by him, and the same are marked as follows: "Complainants' Exhibit Cluett Cost Book A, E. S. B., Sp. Ex., November 16, 1866.

Complainants' Exhibit Pidgin Bosom, E. S. B., Sp. Ex., November 16, 1866, and

Complainants' Exhibit Cluett's Bound Bosom, E. S. B., Sp. Ex., November 16, 1886.

Recess at 1.30 for half an hour.

After Recess.

Examination resumed.

Solicitor for defendants objects to this book on the ground that

the same is irrelevant, immaterial, and incompetent, and appears upon the face of it to be irregularly kept and has no dates as to the entries testified to by the witness, and objects to the bosoms on the ground that the same are immaterial, irrelevant, and incompetent.

Q. 25. Please state whose business is recorded in the Complainants' Exhibit Cost Book A—that is, whose book it is.

A. The book relates to the business of Geo. B. Cluett, Bro. & Co. and is the property of that firm.

356 Q. 26. Who invented the article called Roman cord in this testimony?

A. Robert Cluett.

Q. 27. Was it ever patented?

A. It was not.

Q. 28. Why not?

A. The patent attorney we employed took the money for the application and took no other action, we supposing for the time being that he was sending our application to Washington.

Q. 29. Whose idea was it to make the bosom like Complainants' Exhibit Cluett Bound Bosom—that is, who originated that principle?

A. As Robert Cluett was the only member of the firm in actual charge of the manufacturing department, I feel quite confident that he was the one to propose making the bosom in that method.

The testimony of this witness from the last-stated objection is objected to on the ground that the same is immaterial, irrelevant, and incompetent, and the usual notice is here given.

Q. 30. What was the nature of these three lots of bosoms in which the binding was used—as to their being stock or special?

Objected to on the same grounds.

A. They were not contemplated in the samples we made—from which we introduced these bosoms to our customers. The bound bosom was an afterthought arising through a demand for a plaited Pidgin bosom. They were among the last numbers of the Pidgin bosom we introduced to the trade; were somewhat experimental, for out of four or five of these styles only one appears under regular stock numbers.

Q. 31. Please name some of the objects or reasons of the
357 use of the binding as used in "Cluett Bound Bosom."

Objected to on the same grounds; and, further, the objects of this patent are stated in the letters patent and is the best evidence.

A. The object of binding the Pilgrim bosoms was to strengthen the edge of the bosom and to pocket the edges of the plies and to leave a smooth and firm edge, which was not practicable under the ordinary method because of the intersection of the pleats by the curve in the shape of the bosom. Another object was that we were able to make a smooth edge, pleated, detachable bosom that would launder without wrinkling. Under the ordinary method of making, the turning of the edges of the linen in, the pleats would be liable

to give a surplus of goods in the back of the bosom. Such a bosom would have to be turned with a larger bead than the unpleated bosom an account of the projecting of the intersected pleats.

Q. 32. How long did your manufacture of the Pidgin bosom continue?

Objected to on the same grounds.

A. We commenced to make it about 1869. In the fall of 1871 I went to the West Indies, returning in February, 1872. I believe we made for regular stock but few of the bosoms after that date—after the spring of 1872.

Direct examination closed.

Solicitor for defendants objects to the entire testimony of this witness upon the grounds that it is immaterial, irrelevant, incompetent, and not in rebuttal, and here gives notice that at the
358 proper time and place he will make a motion to strike the entire testimony from the record of this case.

Subject to this motion and notice he cross-examines this witness.

Cross-examination by DAVID TIM, Esq.:

X Q. 33. Did you or your firm make the Pidgin bosom with a binding?

A. We did.

X Q. 34. Of what did the binding consist?

A. A strip of cloth.

X Q. 35. How was it attached to the bosom?

A. By stitching it round the edge of the bosom after passing it through a "binder."

X Q. 36. When did you first commence to make the Pidgin bosom with such a binding?

A. About 1870.

X Q. 37. What part of the year, as near as you can recollect?

A. It might have been past the middle of the year.

X Q. 38. What became of these bosoms after they were manufactured?

A. If any were left unsold they would have been consumed by the fire in our factory in 1880.

X Q. 39. Question repeated.

A. They were sold to customers, mainly in Boston. I can only recollect in one instance in New York.

X Q. 40. Is the complainants' exhibit marked Cluett *vs.* Mack, Complainants' Exhibit Cluett Bound Bosom, E. S. B., Sp. Ex., November 16, 1886, a sample of the Pidgin bosom, as manufactured by you or your firm in 1870, with the binding attached thereto or thereon?

Question objected to, as it calls upon this witness to con-
359 strue the Pidgin patent and identify the Pidgin bosom, this witness not being qualified as a patent expert nor to usurp the functions of the court in the construction of the claims and invention of the patent.

A. I believe that the exhibit presents the method under which we made bound detachable bosoms under the Pidgin license.

X Q. 41. Did Robert Cluett, one of the complainants herein and a member of the firm of Geo. B. Cluett, Bro. & Co., know of the manufacture and sale of these bosoms, as called for in the last complainants' exhibit, to which you attention has been called, in 1870?

A. I can only swear that I myself knew of their manufacture and sale in 1870.

X Q. 42. My question relates to Robert Cluett, not to yourself, and the question is now repeated to you for an answer.

A. I can testify from my own knowledge and from records that I have produced, but I scarcely feel competent to testify to what somebody else knows.

X Q. 43. Can you give an answer of yes or no to X Q. 41?

Question objected to as incompetent on the grounds stated by the witness.

A. I can testify no further than that he might have the opportunity of knowing.

X Q. 44. Was Robert Cluett a member of the firm of Geo. B. Cluett, Bro. & Co. in the year 1870?

A. To swear positively to that I should have to refer to the record of our firm.

X Q. 45. What is your best impression at present?

A. According to my best impression, he might have been a member of the firm at that time.

360 X Q. 46. Robert Cluett has testified that he has been a member of the firm since about 1866. Do you think that that is correct?

A. I believe it to be correct.

X Q. 47. Has he been a member of the firm since that year?

A. He has down to the present time.

X Q. 48. What are his duties in and about the business of your firm?

A. His present duties are in charge of the shirt manufacturing department.

X Q. 49. What were his duties in the year 1870?

A. I am scarcely clear in my mind as to whether at that time his duties confined him to any one department.

X Q. 50. Did he have an opportunity of seeing and examining the various styles of bosoms that were manufactured by your firm in 1870?

A. He did, if you refer to regular stock goods.

X Q. 51. What do you consider the inventable features of the Roman and Jeddo cord, as testified to by you in your direct examination?

A. What is called the Jeddo cord I do not know who invented it. (My duties in the firm from the time I have been a member have been connected with the sale of the goods. I have never been at any one time exclusively in the manufacturing department since I became a member of the firm.) The invention of the Jeddo cord I

know nothing about, and of its use I know no further than its being introduced in the edge of the article by being stitched into the seam. The Roman cord I believe to be the invention of Robert Cluett, and the purpose of the invention to pocket the fraying edges exhibited by the Jeddo edge, and to make a smooth trimming or binding that need not be inserted, but that can be applied to the exterior of any article of wearing apparel where it is requisite to strengthen it, as by a welt, or to ornament it.

361 X Q. 52. From whence are the names Roman and Jeddo, as applied in the present instances, derived?

A. The name Roman is an arbitrary designation of our own, and arose in connection with our original intention to patent it. The name Jeddo edge, I believe, arises from its originally appearing on an English collar called the Jeddo.

X Q. 53. Is it not a fact that prior to the date in which you used or commenced to use these two different kinds of corded edge articles were manufactured with a pocket in order to allow a cord to be inserted therein at the edge of the article itself?

Question objected to as not proper cross-examination, no foundation being laid for the same in the direct examination of this witness.

A. The question is a mixed one, but I recall no articles made in agreement with it.

X Q. 54. You are not prepared to say that no such article was manufactured prior to this time referred to, are you?

A. Your question refers to two distinct trimmings, and is indefinite.

X Q. 55. Question repeated.

A. My impression is no such articles were manufactured.

X Q. 56. Have you not seen at the time referred to children's collars with a pocket made at the neck of the collar and a cord inserted therein, with tassels at the end of the cord, in order to draw the collar tighter to the person of the wearer?

A. Pocketing the cord and pocketing the raw edges of cloth are two different processes.

X Q. 57. Question repeated.

A. I can't say; it refers to a line of collars outside of any experience I have ever had.

362 Recess to permit the solicitors for both parties to appear before Judge Shipman at 4 o'clock p. m. in the matter of the motions heretofore noted herein.

Resumed at 4.55.

X Q. 58. Is it not a fact that at the time referred to ladies' garments contained a pocket at one end thereof for the purpose of inserting therein tape, cord, or other material in order to draw the material tighter and closer to the person of the wearer?

A. To answer that as an expert I should want to have the garments submitted to me.

X Q. 59. Is that the only answer you can give to my last question?

A. That is my answer. I am not a dressmaker.

X Q. 60. During what years was it that you used purple ink in your business?

A. From entries on the cost book already referred to I believe it was about 1869 to 1870.

X Q. 61. Are you able to fix the date irrespective of the book?

A. It might be possible to fix the date by other evidence.

X Q. 62. Are there any years, months, or days mentioned in the book produced by you and marked Cluett cost book; and, if so, on what pages do you find entries of the same?

A. Page 5, March, 1869; page 6, May, 1869, in three places; page 9, May, 1869; on page 8, June 5, in connection with the year 1869, on page 9; page 10, 1869, and July; on same page, further down, October, 1869; page 12, November, 1869, and November 11; same page, lower part of the page, June 6, 1870; page 14, 1870; page 16, June, 1870; page 18, 1871; on page 25, in a memorandum of an agreement, dated 1875; on fly-leaf marked 4 is a memorandum, "C. F. P., paid to April 5th, to April 13th, 1869."

X Q. 63. So far as you can see, are these the only dates you can see in this book?

363 A. I cannot say that they are all, but from a rapid examination those are all I find in the book.

X Q. 64. Is it not possible that you or your firm may have used purple ink in other years than those named by you and after the lapse of time you may have forgotten the same?

A. As the purple ink occurs on different pages in the book, the memorandums recorded in that ink can be compared. I have pasted on inside of front cover a pencil memorandum giving the page of each group of stock collar and cuff lists just as they follow as to date, beginning with No. 299 and ending with 81. As this list was hurriedly prepared, it may be subject to correction. This list I made home a few days ago.

X Q. 65. Question repeated.

A. If used on this book it would not be possible without contradicting the current record of our stock. My own confident impression is that the ink was only used during one period and from that time permanently discontinued.

X Q. 66. Is it not a fact that in 1870 and prior thereto gent's full-dress shirts were made with a fancy corded edge running down the centre pleat?

A. My interest in the shirt business did not commence till 1872 or 1873. I am unable to swear to the date referred to in the question.

X Q. 67. Is it not a fact that in 1870 and for years prior thereto ladies' collars were made with a corded edge?

Question objected to as indefinite and immaterial

A. I cannot swear as to what ladies' goods were made other than those made in connection with our own business.

X Q. 68. At or about the time your firm commenced to use the Jeddo and Roman corded edges did you see any collars out-
364 side of your own manufacture bearing or having a corded edge like either the Roman or the Jeddo referred to in your examination-in-chief?

A. I have already stated that I believe the Jeddo edged collar to have originated outside of our establishment, but I positively assert that the Roman cord in itself and in its application originated within our establishment.

X Q. 69. What is the difference between the Roman and the Jeddo corded edged?

A. The difference between loose fraying edges of cut cloth and a method by which those edges are neatly concealed and pocketed.

X Q. 70. They both are to serve the purpose of a corded edge, are they not?

A. They are applicable to distinct purposes; the Jeddo edge, aside from our superadded method, cannot be practically stitched upon and outside of and added to, as a strengthening welt or ornament, any articles of wearing apparel to which it would be otherwise applicable.

X Q. 71. Could not the raw edges of the Jeddo be turned in and under and by that means applied to the outside of any other material?

A. I could not testify to the practicability of such a suggestion without first experimenting upon it.

X Q. 72. My previous question to you was, were not both the Roman and the Jeddo corded edge intended to be attached to other material in order to give that material a corded edge?

A. I am not aware why our Roman cord should have been ever inserted into the edge of the seam, inasmuch as it is intended for the cord to be prominent; a Roman-cord edge would add unnecessarily, in my opinion, to the thickness of the seam.

X Q. 73. Could not the Jeddo be applied for the same purposes as the Roman?

365 A. It could not be applied to the same purposes if it did not have the same effect.

Cross-examination closed.

J. W. ALFRED CLUETT.

Sworn to before me this 16th day of November, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Adjourned at 5.50 p. m. to 10 o'clock a. m., November 17, 1886.

366 NEW YORK, *November* 17, 1886.

Met, pursuant to adjournment, at 10 a. m.

Present: Solicitors as before.

The solicitor for complainants states that the solicitor for defend-

ants, desiring to ask a limited number of further cross-questions, proceeds further with the examination of the witness, J. W. ALFRED CLUETT, as follows:

X Q. 74. To what articles manufactured by your firm was the Roman cord attached?

A. To ladies' collars and cuffs.

X Q. 75. To what articles was the Jeddo cord attached?

A. To ladies' collars and cuffs.

Cross-examination closed.

Mr. Skilton states that he desires to ask this witness further direct questions in relation to other matters not the subject of the examination at the last meeting which were inadvertently overlooked.

Further direct examination:

Q. 76. Do you know Isaac P. Turner, of Troy, New York, an inventor and patentee of shirts?

Question objected to as immaterial, irrelevant, and incompetent.

A. I do.

Q. 77. In whose employ is he engaged at this time?

Same objection.

A. I am not sure that I can give correctly the firm name. I believe it to be S. A. House's Sons.

367 Q. 78. Have you had any conversation with Isaac P. Turner recently on the subject of the Cluett bound-bosom patent No. 156,880; and, if yea, where?

Same objection.

A. I had several conversations with him during the early part of last month in our office, in Troy, and in accompanying him from our office to his place of business.

Q. 79. Please state the circumstances under which you had these conversations with Mr. Turner.

Same objection.

A. He was requested by us to come down to New York and to testify as to the business character of Isaac H. Mambert. All the arrangements were made for his doing so. Late in the day he sent word that he must decline to go to New York.

Q. 80. Please state what Mr. Turner said to you on the subject of your bound-bosom shirt patent and invention.

Objected to on the ground that this evidence is incompetent, immaterial, irrelevant, improper, and that the said Isaac P. Turner is the best witness; that this is not rebuttal testimony.

A. He remarked that he had carefully studied the invention, admitting that this was for the purpose of inventing something himself in similar line. He spoke very highly of our invention, mentioning two patents, including our bound-bosom patent, as the

two best patents in their line. He mentioned having been referred by the Patent Office to our patent in connection with his own application.

Q. 81. Did you have anything to do with the granting of the license to Herrmann, Aukam & Co. under the bound-bosom patent; and, if yea, what?

368 A. I believe I conducted most of the correspondence of our firm with Mr. Skilton and with Herrmann, Aukam & Co., of New York.

Q. 82. Can you produce the letters received by you from Mr. Skilton and from Herrmann, Aukam & Co., of New York, in connection with that patent and license?

Objected to as immaterial, irrelevant, incompetent, and improper evidence.

A. Any such letters now in our possession would be those that happened to be in our safe at the time of our fire, in March, 1880.

Q. 83. Have you any of these letters that passed safely through the fire of 1880?

Same objection.

A. I have some recollection of seeing one or two, but do not now know in whose possession they are.

Q. 84. What, if anything, do you recall as to the action taken in connection with the Herrmann, Aukam & Co. license and the infringements of the patent in 1875, 1876, and thereabouts?

Same objection.

A. I remember conversations with Mr. Aukam in reference to their accepting a license under the bound-bosom patent. I remember corresponding with Mr. Skilton on the subject, and that the action taken on our part was under the advice of Mr. Skilton. I remember that Messrs. Herrmann, Aukam & Co. complained, subsequently to taking their license, that some one was infringing the patent, but they failed to give us names of infringers or to give us specimens of infringing goods.

Q. 85. What was the status or condition of this bound-bosom patent and invention and the general acquiesence of the pub-

369 lic in your rights under the patent during the first seven or eight years or more of the life of the patent?

Same objection.

A. During that period we had no reason to believe that we were not enjoying the exclusive use and advantage of our patent, with the exception of license granted to Herrmann, Aukam & Co.

Q. 86. What was the first instance or case of infringement of the patent that came to your notice, and when did it come to your notice for the first —, if you remember?

Same objection.

A. To the best of my recollection the first bound-bosom shirt

made without the authority of our patent coming to my notice purported to be manufactured by Tim, Wallerstein & Company. I made no record of the date, but it might have been a few months prior to the commencement of our suit against that firm. I refer to the suit against H. B. Claflin *et al.*

Q. 87. Against what parties have suits been commenced under this bound-bosom patent? Please mention all of them.

Same objection.

A. H. B. Claflin *et al.*, Mr. Mack, of Albany; these are all I can at present call to mind.

Q. 88. Was there any suit commenced against any parties in the northern district of this State by your local attorney in Troy?

Same objection.

A. There was. I now recall the name Wilbur, Krum & Wilbur as being parties to a suit brought against them in our name by our attorney, Nelson Davenport, of Troy.

370 Q. 89. Do you recall the date of commencing that suit and the time of the infringement involved in that suit?

Same objection.

A. I do not recall the date, but believe the period is within the last one or two years. In that particular case I have not been personally active.

Q. 90. Please state in general what the instructions to your attorney, Mr. Skilton, were in the years 1875 and 1876 as to pursuing any alleged infringers.

Same objection.

A. We instructed him to use his discretion and to act in our defense; to bring suit against all infringers without reference to the financial strength of the parties.

Q. 91. I place in your hands Complainants' Exhibit Cluett Copy Letter, December 19, 1874, and Mem., E. S. B., Sp. Ex., November 13, 1886, and ask if you recognize the letter and to state what it is.

Objected to on the same ground, and on the further ground that the letter speaks for itself.

A. I recognize the letter of December 19, 1874, as emanating from our office. I believe I recognize the handwriting to be that of our book-keeper. The pencil memorandum signed in my name is in my handwriting. The pencil memorandum on the face of the letter—namely, "Copy of letter of agreement"—is in my handwriting. The terms embodied in the agreement I recall from memory, together with the reasons for so shaping them, as being transmitted to

371 Herrmann, Aukam & Co. at that time, and in reply to a letter of December 18 from Herrmann, Aukam & Co., in which they ask for an exclusive license, which letter I now hold in my hand, and which is marked Complainants' Exhibit Herrmann, Aukam & Co. Letter of December 18, 1874, E. S. B., Sp. Ex., November 13, 1886.

Q. 92. Please examine Complainants' Exhibit Cluett Postal Card, September 7, 1875, E. S. B., Sp. Ex., November 13, 1886. State who wrote it and whether the statements contained therein are true.

Same objection.

A. The postal card referred to signed with my initials is in my handwriting, and the statement therein is true, to the best of my knowledge and belief.

Q. 93. Please examine Complainants' Exhibit Cluett June 7, '75, Letter, E. S. B., Sp. Ex., November 13, 1886, and state in whose handwriting the letter is written.

Same objection.

A. The letter referred to, which I now hold in my hands, is in the handwriting of Robert Cluett.

Direct examination closed and the witness submitted for cross-examination.

Solicitor for defendants objects to this testimony given as direct testimony on the ground that the same is incompetent, irrelevant, immaterial, and improper, and here gives notice to the solicitor for the complainants that at the proper time and place he will make a motion to strike the same from the records of this case. Subject, however, to this objection and notice he cross-examines this witness.

372 Further cross-examination:

X Q. 94. Were the instructions as testified to by you as being given to Mr. Skilton in 1875 conducted through correspondence?

A. I cannot state positively whether these instructions were given at any interview with Mr. Skilton or through correspondence, but I distinctly call to mind that it was not our intention to leave any of our rights undefended, even though a house of the importance of Rothschild & Gutmann should be an infringer.

X Q. 95. If you can remember at this late date so positively that instructions were so given, how is it that you cannot remember at the same time whether the instructions were given verbally or in writing?

A. The motives that would dictate such instructions would be more readily recalled than the medium or method of communicating.

X Q. 96. Is that the only answer you can give to the last question?

A. I can extend the answer, and do extend the answer, by saying that we have never wished to manufacture under a patent that we could not defend against any infringers whatsoever.

X Q. 97. Do you know or have you heard from any source that when application was first made by Robert Cluett for letters patent to cover the matter in dispute here the same was refused by the Department at Washington on the ground that the alleged patent contained no novel features or invention?

A. I did not conduct, to the best of my recollection, any of the

business transacted in reference to obtaining the bound-bosom patent, and am therefore only competent to answer the question from hearsay or casual recollection.

X Q. 98. My question to you embodied the answer you have just given, and it is now repeated to you for an answer.

373 A. I have no recollection of hearing that such a response to application emanated from the Patent Office.

X Q. 99. What did you mean by saying you were only competent to answer this question by hearsay or casual observation?

A. I intended to imply that that followed from my not assisting in inventing the bound bosom, or, to the best of my recollection, not assisting in any of the correspondence in reference to obtaining that patent.

X Q. 100. Do you mean to say that you never heard that this application referred to was refused on the grounds stated?

Question objected to on the ground that the records of the Patent Office are the best evidence of the facts inquired about, and that this evidence as here sought for would be secondary.

A. I can only repeat my reply as already given to previous questions. I have never heard such a statement.

X Q. 101. Is it not a fact that for years previous to the application made by Robert Cluett for the invention here in question flannel shirts were made with bound bosoms?

Question objected to as incompetent, irrelevant, and immaterial.

A. I have heard that flannel shirts were made with bound bosoms prior to date of Cluett bound-bosom patent.

X Q. 102. Would you undertake to say that for over two years previous to the application of Robert Cluett for the alleged letters patent here in dispute bound-bosom shirts were not made and

374 introduced into the market in different parts of the United States covering all the features claimed in those letters patent?

Question objected to as grossly incompetent, no foundation whatever being laid for the same in the direct testimony of this witness, either that given to-day or at any other time.

A. I do not know of the existence of a bound-bosom shirt involving the method patented in Robert Cluett's bound-bosom patent having been offered to the trade in the United States or manufactured as stated.

X Q. 103. Question repeated.

A. I will undertake to say to the best of my knowledge and belief no such shirts were put on the market at any time before the issue of Robert Cluett's patent.

X Q. 104. You cannot swear positively that there were not, can you?

Question objected to as incompetent, irrelevant, immaterial, and frivolous.

A. I have not the omniscience that would entitle me so to swear.

Examination of this witness closed.

J. W. ALFRED CLUETT.

Sworn to before me this 17th day of November, 1886.

EDWARD S. BERRALL,

[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

375 ROBERT CLUETT, recalled on behalf of complainants, being duly sworn, deposes and says:

Q. 1. You have heretofore testified in this case, have you not?

A. I have.

Q. 2. Please state what you recall as to the Herrmann, Aukam & Co. license and as to any alleged infringements in the earlier part of the life of the letters patent here in question.

A. I recall the fact that soon after the patent in question was issued Herrmann, Aukam & Co. desired to secure a license from our firm to make and sell bound-bosom shirts under the patent. The matter was duly considered by our firm and the license granted to Herrmann, Aukam & Co. by letter. Some time after the granting of the license referred to we were informed that a large concern in New York was appropriating our invention and making goods which infringed upon our patent or preparing to do so. The firm alluded to was Rothschild Bros. & Gutmann. Under date of June 7, 1875, I wrote to our attorney, Mr. James A. Skilton, calling his attention to the information we had received, and also stating that we had given the exclusive right to make and sell this bosom (reserving the right to make and sell it ourselves) to Messrs. Herrmann, Aukam & Co. This letter is marked Cluett *vs.* Mack, Complainants' Exhibit Cluett Letter, June 7, '75, E. S. B., Sp. Ex., November 13, 1886. Mr. Skilton gave the matter his immediate attention, and caused the license above referred to be reformed, as shown in the license dated July 21, 1875, and already put in evidence. Mr. Skilton then gave his prompt attention to the matter of the alleged infringement by Messrs. Rothschild Bros. & Gutmann, making several calls upon that firm, giving them notice of the patent, and warning them against any infringement of our rights under said patent, and reporting to us from time to time, fre-

376 quently by letter, the results of his interviews with the firm mentioned. I am unable to produce these letters, as they were destroyed in our fire of 1880. Mr. Skilton was unable to discover any infringing articles or anything to indicate that any infringement was intended, and he was assured by Rothschild Bros. & Gutmann that they had no intention of infringing, were not then infringing, nor had they in any way infringed upon our patent. At or about the same time they asked for a license from us allowing them to make and sell shirts under our bound-bosom patent. Mr. Skilton informed us of the facts just mentioned, and he had imme-

diate charge of all negotiations on the subject and was conversant with all that was done.

Q. 3. Have you read the testimony given by Mr. James A. Skilton herein in relation to the license and to Rothschild Bros. & Guttman; and, if yea, what have you to say in regard to the statements made in his testimony so given?

A. I have read the testimony of Mr. Skilton and can corroborate the facts therein set forth, many of them being matters of personal knowledge on my part and others having been reported by him at the time. To the best of my knowledge and belief, all the statements contained in Mr. Skilton's testimony are true.

Q. 4. Did you make any other shirt between the shirt shown in an application filed in the Patent Office by you on February 17, 1873, and the date of the filing of your application in the bound-bosom patent? And, if yea, please state how it was made.

A. Between the application of February 17, 1873, and that of April 8, 1873, we made a shirt the shape of bosom, being what is generally termed "coffin" shaped, except that at a point near the top instead of the bosom entering the yoke it extended to the neck band on a diagonal line, leaving a portion of the body between the
377 yoke and the line mentioned which admitted of the play of the shoulders, the purpose being to prevent the bosom from wrinkling by the motion of the arms and shoulders.

Q. 5. If you have a sample of a shirt with a bosom so made please produce it.

A. I have a sample which is so made, so far as the bosom is concerned, and I here produce it.

The shirt referred to is offered in evidence on behalf of complainants and is marked Complainants' Exhibit Coffin-Shaped Bosom Shirt, E. S. B., Sp. Ex., November 17, 1886.

Objected to as being incompetent, immaterial, irrelevant, and improper.

Q. 6. With what success did this style of shirt meet, if any?

A. We first introduced this shirt in our furnishing-goods store on River street, and the improvement was much appreciated by our customers and led to a large number of sales. We continued making this style of shirt for some time, until we discovered that the friction caused by the motion of the shoulders and body caused the body of the shirt to wear out between the yoke and the top of the bosom, above described. In my next improvement, to remedy the difficulty just described the bosom was continued to the yoke, and one or more of the underplies were cut out and the edges turned over to form a welt, as shown in my letters patent No. 161,205.

Q. 7. How did you make the bound bosom of the patent here in question when you first began to make it, so far as the top of the bosom is concerned?

A. We frequently made the bosoms with the welt as shown in letters patent No. 161,205, in addition to the binding on the edge of the bosom extending to the yoke. We discovered, however,
378 that the purposes of the welt were fully accomplished by the

binding, doing away with the necessity for the use of the welt in the exact position shown in the drawing of letters patent No. 161,205; consequently we later decided to use only the welt made by the binding, as that was sufficient.

Q. 8. Are you able to produce samples of shirts in which other establishments have recently adopted the binding on the edge of the bosom and the welt effects in their shirt manufacture? And, if yea, please produce them.

A. I am, and produce shirts Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9. No. 1 bears the brand or woven label of James L. Libby & Co., and was no doubt made by that firm. No. 2, I believe, was made by Miller, Hall & Hartwell, of Troy, New York. No. 3 was made by a firm in Easton, Pennsylvania, under the patent of E. T. Craven, I think. Nos. 4 and 5, I believe, were made by George P. Ide & Co., of Troy, New York. Nos. 6 and 7 by Mack & Co., of Albany. Nos. 8 and 9 were made by Wilbur, Miller & Wilbur.

Q. 9. Will you please produce samples of shirts manufactured by you under the letters patent here in question?

A. I will, and here produce a box containing six bound-bosom shirts, each being stamped on the body directly below the bosom tab "No. 100;" these six shirts are unlaundered. I also produce six laundered shirts stamped below the bosom tab "No. A 9." I also produce six shirts stamped "No. 19," the bosoms of which are laid on the body. In addition to the nine shirts mentioned in answer to Q. 8, I would like to add a tenth shirt, which is made by G. W. Pine, Lansingburg, N. Y.

These shirts will be offered in evidence on behalf of complainants later on.

379 Q. 10. Did you send out traveling salesmen with the bound-bosom shirts from the city of Troy; and, if yea, in what direction, when, and who were they?

A. We did send out traveling salesmen to obtain custom orders with samples of bound-bosom shirts. I do not know that I can give the names of all these salesmen, but I now recall the names of M. C. Greaves, John W. Cadby, J. D. Wyman, James T. Gaynor, and a young man named Bullis. We solicited these custom orders in various directions, going north as far as St. Albans, I believe, south as far as West Point, west as far as Auburn, and east on the Boston and Albany road, I think, as far as Springfield, Mass., taking in the small towns on the way, such as Chatham, Westfield, Pittsfield, and other places which I cannot now recall. I think that we solicited these orders in the years 1873, 1874, and perhaps a part of 1875. I may add that our agents also called at the smaller towns on the other routes I have mentioned.

Direct examination closed.

Solicitor for defendants, having reserved by agreement the right to enter a general objection to the testimony of this witness taken here to-day, now objects to the entire testimony so taken on the ground that the same is incompetent, irrelevant, immaterial, im-

proper, and in part hearsay evidence and is not in rebuttal, and now gives notice to complainants' solicitor that at the proper time and place he will make a motion to strike this testimony from the record of this case. Subject, however, to this objection and notice, he cross-examines this witness.

Cross-examination by Mr. TIM:

380 X Q. 11. The shirts that have been offered by you, and respectively numbered Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, will you please state how these shirts came into your possession.

A. I cannot distinctly recall the circumstances by which they all came into our possession. No. 1, which bears the woven label of James L. Libby & Co., I believe was obtained by our New York agent and sent to us from that city.

X Q. 12. Interrupting your answer here, please select from these ten shirts those which you yourself procured or obtained?

A. I did not personally obtain any of these shirts from the makers.

X Q. 13. Are you ready to state from your own personal knowledge the name of any person, outside of your employees, from whom these shirts were procured?

A. Many of the shirts in question bear the brands or patent marks of the manufacturers, so that they can be identified as made by the parties named as well as if I had personally obtained them from these parties.

X Q. 14. Will you please give me a direct and not evasive answer and tell me if you are ready to say from your own personal knowledge from whom these shirts were derived or received before they came into your possession?

A. No. 10 was obtained from Mr. Pine himself in Lansingburg by a young man in our employ named Watson, and the shirt bears his initials in ink; the shirt was obtained at my request.

X Q. 15. Aagain interrupting your answer, I ask you to give me your own personal knowledge and not any knowledge or information received from any of your employees, and again ask you, are you ready to say from your own personal knowledge from whom these shirts were obtained before they came into your possession?

A. I have already stated that I did not personally obtain any of these shirts from the manufacturers.

381 X Q. 16. Then you have no personal knowledge on this subject?

A. My knowledge comes from facts connected with the obtaining of the shirts and from the stamps or brands which the shirts bear.

X Q. 17. Do you know what personal knowledge consists of?

A. I believe I do.

X Q. 18. Then please answer my last question as to your personal knowledge on this subject.

A. I have given the best answer I can.

X Q. 19. You are not ready and prepared to say that though these ten shirts bear a certain stamp or stamps that you know as a posi-

tive fact and of your own knowledge that they were received from the parties named in your answer to question 8—you?

A. I am prepared to say that I believe the shirts to have been made by the parties named.

X Q. 20. You stated a moment ago that you knew the meaning of personal knowledge, and my question related to personal knowledge and not to your belief or information received from your employees.

A. I have fully covered the question by my previous answer.

X Q. 21. Is that the only answer you can give to my question?

A. I have already given the best answer I know how.

X Q. 22. Are you acquainted with the style of bosom which was made by your firm in 1870, a sample of which has been offered in evidence in this case and marked Cluett *vs.* Mack, Complainants' Exhibit Cluett Bound Bosom, E. S. B., Sp. Ex., November 16, 1886?

A. I am familiar with the bosom in question.

X Q. 23. Did your firm make these bosoms in the year 1870?

Question objected to as not proper cross-examination and without foundation.

382 A. We did make such bosoms, I believe, in year 1869 or 1870.

X Q. 24. What became of these bosoms at that time after they were manufactured?

A. Some of them were shipped to customers, and I believe some were destroyed at the burning of our factory.

X Q. 25. Do you remember the time when you sent in your application for the letters patent in dispute here?

A. I do remember applying for the patent through Mr. Skilton.

X Q. 26. Is it not a fact that when your application was sent in for these letters patent the application was denied or refused by the Department at Washington on the grounds that it disclosed no novel features or invention?

A. I am not aware of such being the case. I do believe that the Patent Office at first reported some features of the patent as having been anticipated by a previous invention; but, on further investigation, I believe these objections were withdrawn or removed; but cannot give further particulars, as the papers, if in existence, must be in the hands of our attorney, Mr. Skilton, through whom we obtained the patent.

X Q. 27. Was not the patent refused on the ground that it was no novelty in binding shirts, and was not, in consequence thereof, an amended petition presented by you, after being sworn to by you, to the Department at Washington for such letters patent?

A. I cannot swear positively whether the Patent Office did or did not so report, as the papers are in possession of Mr. Skilton and have been since my application for the patent.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

383 R. D. Q. 28. Who was the inventor of the idea embodied in the Exhibit Cluett Bound Bosom, November 16, 1886? And please state whether the bosoms made like it were a regular manufacture or only casual, temporary, and experimental.

Objected to as leading.

A. So far as the binding of the bosom mentioned is concerned, it was my own idea, and this method was adopted for the purpose of giving the edges to the bosom a more finished appearance, and also for the purpose of preventing the wrinkling of the back layer occasioned by the fullness produced by stitching the parts together and turning the same right side up. I made this experiment believing that it would enhance the value of the bosom and designed to test the fact.

Examination of this witness closed.

ROBERT CLUETT.

Sworn to before me this 17th day of November, 1886.

EDWARD S. BERRALL,

[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Solicitor for complainants offers in evidence the samples of shirts spoken of by last witness in answering Q.'s 8 and 9, and the same are marked respectively Complainants' Exhibit Bound and Welted Sample Shirts, No. 1 to No. 10, inclusive, identified by the numbers given in those answers, E. S. B., Sp. Ex., November 17, 1886;

384 also six unlaundered shirts mentioned in answer to Q. 9, and the same are marked Complainants' Exhibits Cluett Bound-Bosom Inserted Bosom Shirt, E. S. B., Sp. Ex., November 17, 1886; also six laundered shirts mentioned in answer to Q. 9, and the same are marked Complainants' Exhibits Laundered Cluett Bound-Bosom Inserted Bosom Shirt, E. S. B. Sp. Ex., November 17, 1886; also six unlaundered set-on bosom shirts mentioned in the same answer, and the same are marked Complainants' Exhibits Unlaundered Cluett Bound-Bosom Set-on Bosom Shirt, E. S. B., Sp. Ex., November 17, 1886.

Solicitor for complainants also offers in evidence on behalf of complainants a certified copy of the file and contents of the application of Robert Cluett, filed February 17, 1873, and the same is marked Complainants' Exhibit Cluett File and Contents, Application February 17, 1873, E. S. B., Sp. Ex., November 17, 1886.

The introduction of these exhibits or shirts in evidence is objected to on the ground that they are immaterial, irrelevant, incompetent, and improper evidence. The introduction of the Exhibit Cluett File and Contents, Application February 17, 1873, objected to on same grounds.

Adjourned at 3.25 p. m., — — on Thursday, Nov. 18, 1886, at 10 o'clock a. m.

385 NEW YORK, *November* 18, 1886.

Met, pursuant to adjournment, at 10 a. m.

Recess until 11 a. m.

Present: Mr. Skilton, for complainants; Mr. Tim, for defendants, and Mr. Louis C. Raegener, for defendants.

It is hereby stipulated and agreed by and between solicitors for complainants and defendants that the file and contents of complainants' letters patent No. 156,880 is in evidence on behalf of defendants herein. This stipulation is entered into for the reason that on a superficial examination of defendants' record no express notice or offer of this file and contents in evidence on behalf of defendants is discovered, although it was understood that the same should be put in evidence or would be put in evidence by and on behalf of defendants; and this statement and stipulation is intended to have full force and effect in both cases—Claflin and Mack cases. The copy offered in evidence does not appear to have a certificate of the Patent Office attached thereto, but such certificate is waived on behalf of complainants. The copy referred to is marked by the special examiner here present for identification as follows: Defendants' Exhibit Complainants' Patent File and Contents, E. S. B., Sp. Ex., November 18, 1886.

386 EMILY C. MOORE, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Emily C. Moore; twenty-six years old to-day; residence, 289 Kaighn's Point avenue, Camden, N. J.; occupation, shirt-maker. I am the wife of A. W. Moore.

Q. 2. How long have you been a shirt-maker?

A. I have been making shirts off and on for nine years.

Q. 3. In whose employ have you latterly been engaged, and for how long?

A. Hagedorn & Newman, originally Sinzheimer & Deutsch, since November, 1881, located in Philadelphia. When I went to work for them they were at Second and Stephen, Camden.

Q. 4. In whose employ are you at this time?

A. No one's at the present time. I left the employ of Hagedorn & Newman about five weeks ago.

Q. 5. How long have you known Mr. Sinzheimer?

A. I have only known Mr. Sinzheimer since they moved the place to Philadelphia, to speak to him. I knew him as a member of the firm before in Camden, New Jersey, where they formerly had their factory.

Q. 6. Do you know Peter Michel, of Philadelphia?

A. I do.

Q. 7. For whom does Peter Michel work, and for how long has he been in that employ?

A. He worked for Hagedorn & Newman the last I seen Mr. Michel, and he also worked for the old firm of Sinzheimer & Deutsch ever since I worked for them—as a shirt-cutter.

Q. 8. Is Mr. Michel related to Mr. Alexander Sinzheimer; and, if yea, what is his relation?

Objected to unless the witness knows the fact from personal knowledge.

387 A. He is married to Mr. Sinzheimer's step-mother.

Q. 9. What other relatives of Mr. Alexander Sinzheimer, if any, have been employed in the factory of Hagedorn & Newman while you have been in that employ, and also during Sinzheimer & Deutsch's time?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. Lewis Koster (or C-o-s-t-e-r), shirt-cutter, and his wife; a sister of Mr. Sinzheimer, forelady in the laundry—I don't know her first name; Fredericka Smith, sister of Mr. Sinzheimer, forelady in the operating-room; Nettie Sinzheimer, sister of Mr. Sinzheimer, assistant forelady in the operating-room; Jennie Sinzheimer, sister of Mr. Sinzheimer, assistant forelady in the city. She was only with them during Sinzheimer & Deutsch's time. Nettie Sinzheimer was the forelady at North Wales up to the time of the failure of the firm, when they broke up there.

Q. 10. What part of the work have you been employed upon while working for Sinzheimer & Deutsch and Hagedorn & Newman?

A. When I first went to work for them I stitched on cuffs for awhile, but most all of my time was running on collar bands. Sometimes when we would be slack of work we would have to do something else between.

Q. 11. What is the position of Mr. Alexander Sinzheimer, and what is his relation to the business conducted under the name of Hagedorn & Newman?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. All I can state is that I have seen their bill-heads and slips marked as A. Sinzheimer, manager.

388 This answer is objected to on the grounds above stated, and further that this witness has no personal knowledge of the fact and does not produce any of the printed matter from which she has testified.

Q. 12. What is the understanding among the employees as to Mr. Sinzheimer's present and prospective relations to the business conducted under the firm name of Hagedorn & Newman?

Objected to on the grounds last stated.

A. That in a short time, maybe a year or two—three for that matter—that the firm will be back into Mr. Sinzheimer's hands or he will be back in the old firm as it now stands—that is, as one of the partners. It has always been the impression among the hands from what the foreladies stated that the business always was Mr. Sinzheimer's. At the time that Hagedorn & Newman took that place

there was a reduction of wages. The employees finding fault that the new firm ought not to have cut them down, when Mrs. Smith said that it would only be a short while until Mr. Sinzheimer got on his feet again. We then asked her if Mr. Sinzheimer would ever have that place back again; she smiled and said she thought so in a short time.

Q. 13. Has the factory of Hagedorn & Newman ever been destroyed by fire; and, if yea, when?

Objected to on the same grounds.

A. Yes, sir; about a year ago. The fourth and fifth floors were completely burned out.

Q. 14. Will you please describe in words and illustrate as you may be able to do by samples or sample shirts the shirts made by Hagedorn & Newman, and also those formerly manufactured in the name of Sinzheimer & Deutsch?

389 A. Hagedorn & Newman make a shirt which is called "The Boss" shirt; Sinzheimer & Deutsch also make a shirt called "The Boss." I have in my hands one of those shirts—"The Boss"—manufactured by Hagedorn & Newman. It has a welt edge, and the front facings have been run through a hemmer before being put to the shirt; it also has a patent collar band on. The style made by Sinzheimer & Deutsch of "The Boss," the front facings were turned under and sewed to the front of the shirt before the bosom went on; the bosom, then, was put on afterwards—sewed to the edge—with the old-style collar band.

Q. 15. Please give the different names applied to the shirts as made by Hagedorn & Newman, and also by Sinzheimer & Deutsch.

A. I have a list in my hands which contains the names of the shirts made in those concerns while I was in their employ.

Q. 16. By both of them?

A. So far as I know. I think the following were adopted by Hagedorn & Newman originally: Park, Camel Back, The New Philadelphia, Automatic, The Acorn, and The Best. I think that is all. Hagedorn & Newman use all the marks on this paper, but Sinzheimer & Deutsch did not use the names just quoted, but did use the rest of the names.

Q. 17. Please proceed with the answer to Q. 14.

A. Hagedorn & Newman make the "National Automatic," and I hold a sample of that "Automatic" in my hands—one that I know to be made in their factory. This "National Automatic" is made bag bosom, which is made by stitching the lining to the outside of the bosom and turning the bosom. All their "Automatics" are made by having a plain piece sewed at the bottom of the bosom; it also has a patent collar band. Sinzheimer & Deutsch never made that, to my knowledge. I hold in my hands a sample of a

390 shirt made by Hagedorn & Newman—that is, one lot of 60 to 80 dozen, to my knowledge—the name of which I do not recall, if it had a name. The bosoms were set in with the raw edge standing up to be covered by a bias strip sewed all the way around the bosom in the same manner as shown in this sample. Those

bosoms were put in by two "weekers," Eliza Connor and Ella McGuirk. I saw them put them in. I collar-banded most all of the lot. The bosom was a three-ply bosom and the shirt was a fine shirt. I now hold in my hands a shirt called "The Dauntless," made by Hagedorn & Newman. I recognize this sample as being made by them. It is marked Complainants' Exhibit Dauntless, Sinzheimer, A. McL., N. P. This shirt is only two-ply bosom; sewn to the shirt makes it three ply. It has a bias strip of muslin sewn around the bosom, then turned over and stitched on the edge to represent a cord, then stitched fast to the shirt, and the shirt is marked as a four-ply bosom. The facings are sewed onto the front before the bosom is put on.

Q. 18. Is the bosom of this shirt a four-ply bosom; and, if not, why not?

A. It is not. It is only a three-ply bosom. I suppose the bias binding means the fourth ply—that is, counting the strip, the bosom has four plies of material on the edge, but not in the body of the bosom. When these bosoms were first made in which the binding strip was used it was cut so that the top of the bosom came under the collar band and did not extend to the yoke. Subsequently they found it looked better by changing it so that the bosom extended to the yoke, as in the sample I hold in my hands and have just described. This shirt is known to me as Lot "50 R" and is so marked. This shirt also has a patent collar band. Most of the Hagedorn & Newman shirts now have patent back strip and placket in the sleeve. I hold in my hands a cheaper form of the "Auto-
391 matic" shirt called the "Automatic O"—that is, a sample of the bosom and a part of the body showing how the shirt is made. The sample referred to has one ply too many, as they only made it in two ply over the body; with that exception the sample correctly shows the make of that part of the shirt which it illustrates, except that it should have a tab at the square bottom part of the main part of the bosom, and the silk mark bearing the name of the shirt below the rounded bottom of the bosom, which was applied to such shirts as they were sent out. The firm send out shirts made just like the "Dauntless," but bearing a silk mark with other names of those in the list—printed list—of which I have previously testified. Hagedorn & Newman also have manufactured another shirt called "Lot 10;" also "Lot 15." "Lot 10" was a shirt with no yoke, bosom just set on, round bosom with just a two-ply collar band, and no front facings. I understood that they sold at retail for twenty-five cents each. "Lot 15" was a plain yoke set on, sometimes made square bosom, sometimes round.

Solicitor for defendants, having by consent reserved the right to enter a general objection to the testimony of this witness from Q. 14, hereby objects to the testimony so given upon the ground that the same is immaterial, irrelevant, incompetent, and improper, and on the further ground that this testimony relates to the manufacture of shirts made subsequent to the date of the alleged letters patent, and gives the usual notice.

Q. 19. While you have been in the employ of Sinzheimer & Deutsch and Hagerdorn & Newman have you known of their making—either of them—a shirt with a bias binding strip applied on
392 the edge of the bosom in the manner shown in Defendants' Exhibit A, which I now place in your hands for examination?

Objected to if the purport of this question is to contradict the testimony of Peter Michel upon any new subject-matter brought out by the complainants' solicitor upon cross-examination.

A. They have never made any of this style with a bias strip projecting from the bosom, as this sample shows, not while I have been in the employ of either firm, not in the factory where I worked. As to what they did in the factory at North Wales I am not fully informed. The bias strip was always applied in the way shown in the "Dauntless" shirt.

Recess at 1.05 for half an hour.

After Recess.

Solicitor for complainants offers the several shirts and samples and list spoken of by the witness in evidence on behalf of complainants, as follows: "The Boss" shirt, which is marked Complainants' Exhibit The Boss Shirt, E. S. B., Sp. Ex., November 18, 1886; also the "National Automatic" shirt, which is marked Complainants' Exhibit The National Automatic, E. S. B., Sp. Ex., November 18, 1886; also a sample like the lot of 60 or 80 dozen, and the same is marked Complainants' Exhibit Flat Binding Sample, E. S. B., Sp. Ex., November 18, 1886; also a miniature sample of the bosom and shirt front, with a small strip of flat binding applied thereto,
393 and the same is marked Complainants' Exhibit Miniature Flat Binding Sample, E. S. B., Sp. Ex., November, 1886; also "The Dauntless" shirt, and the same is marked Complainants' Exhibit Dauntless, Sinzheimer, E. S. B., Sp. Ex., November 18, 1886; and also the "Automatic O" shirt, and the same is marked Complainants' Exhibit Automatic O Shirt, E. S. B., Sp. Ex., November 18, 1886; and also the printed list of shirts, and the same is marked Complainants' Exhibit Sinzheimer, Hazedorn & Newman List, E. S. B., Sp. Ex., Nov. 18, '86.

Solicitor for defendants objects to the introduction of the foregoing shirts in evidence on the grounds that the same are irrelevant, incompetent, immaterial, and improper, and cover a period subsequent to the date of the alleged letters patent.

Q. 20. What is the object or purpose of the use of fancy material in the large sample of flat binding?

Objected to on the foregoing grounds.

A. For the purpose of plainly showing that it was a bias strip that was used, distinguishing it.

Q. 21. Please explain the miniature sample of flat binding. State who made it and what it was made to illustrate and when.

Objected to on the same grounds and on the further ground that the witness has not stated as yet that she herself made these bosoms, and therefore is incompetent to testify.

A. It was made on the 29th of October by Emily Moore—
394 myself—to show we made a style of bosom at Hagedorn & Newman's with a flat binding laid on the top. The large one was made a day later to show the same thing in full size.

Q. 22. Do you know or know of Julius Deutsch, of Julius Deutsch & Co., gents' furnishers, No. 7 South Eighth street, Philadelphia; and, if yea, who is he?

A. I do. He is Mr. Deutsch's brother, who was in with Sinzheimer & Deutsch, now salesman for Hagedorn & Newman.

Q. 23. Whose shirts do Julius Deutsch & Co. sell—whose manufacture?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. As far as I have seen in his window and in his store, the Royal Shirt Manufacturing Company, Hagedorn & Newman.

Q. 24. How long has Hagedorn & Newman manufactured the welt-edge shirt?

Objected to on the same ground.

A. Right after they went into the firm. I won't state whether it was a week, a month, or two months, but in a short time.

Q. 25. Do you know Mrs. Catharine Lacy, of Philadelphia; and, if yea, how long have you known her and where have you known her?

A. I do. She was the first employee that spoke to me in Sinzheimer & Deutsch's. I sat right opposite to her.

Q. 26. Do you know Mrs. Carrie L. Baker, of Philadelphia; and, if yea, how long have you known her and where?

A. I do. She was working at Sinzheimer & Deutsche's when I went there to work.

Q. 27. Please state, if you know, how long Mrs. Lacy and
395 Mrs. Baker have been employed by Sinzheimer, Sinzheimer & Deutsch, or Hagedorn & Newman.

Objected to on the grounds last stated.

A. I could not state in regard to Kate Lacy. I can only say, as far as Kate Lacy is concerned, she has worked there as long as I have. Mrs. Baker has worked there very near fifteen years.

Direct examination closed.

Solicitor for defendants gives notice to complainants' solicitor that at the proper time and place he will move to strike from the record all the questions and answers directed to and given by this witness to which objections have been noted. Subject to these objections and this notice the witness is cross-examined.

Cross-examination by Mr. TIM:

X Q. 28. In what year were you first engaged as an operator upon shirts?

A. In '81.

X Q. 29. Where?

A. At Bubrillion Bros., Baltimore.

X Q. 30. How long were you engaged there?

A. Between eight and nine months.

X Q. 31. Where were you next engaged and for what length of time?

A. At Sinzheimer & Deutsch's from November, '81, until the firm failed, which was in the year 1884, I think.

X Q. 32. What firm were you next engaged with and for what length of time?

A. Hagedorn & Newman up to within about six weeks or two months of this date; about that.

X Q. 33. Were you continuously employed at Sinzheimer & Deutsch's during the entire time to which you have testified?

396 A. Yes, sir; with the exception of holidays and machinery being out of order.

X Q. 34. Were you never absent from the factory exclusive of the times and occasions you have just referred to?

A. I never was, with the exception of four months.

X Q. 35. Please fix the date of the four months you refer to.

A. I think it was in '82; it was in the summer months.

X Q. 36. While engaged at Sinzheimer & Deutsch's what were your duties?

A. When I first went there, for awhile I stitched on cuffs; how long I could not state. After that I stitched on collar bands.

X Q. 37. In what part of the factory were you engaged at work?

A. In the factory in Camden I worked on the second floor, in the operating-room, until the firm moved to Carter's alley, Philadelphia, and in the Carter's alley factory I worked in the fourth floor—the operating-room.

X Q. 38. Do you know where the cutting-room was in the Camden and Philadelphia factories of Sinzheimer & Deutsch?

A. At the time I went to work for them the cutting was done in Philadelphia and was so done during the time I worked in the Camden factory. In the Carter's alley factory the cutting-room was on the fourth floor when we first went there. I cannot say how long, but after that it was removed to third floor.

X Q. 39. While you were engaged in the Camden factory where was Peter Michel engaged for Sinzheimer & Deutsch?

A. As I did not see Mr. Michel cutting the shirts, I only have the statement of the employees that he was a cutter for Sinzheimer & Deutsch.

397 X Q. 40. Did you see Peter Michel engaged in cutting shirts for Sinzheimer & Deutsch in the Carter's alley factory?

A. I did.

X Q. 41. For what length of time?

A. From the time I was on the fourth floor until the firm failed. For a little time Peter Michel was absent from the factory, but I cannot say whether it was during the time of Sinzheimer & Deutsch or Hagedorn & Newman.

X Q. 42. Is it not a fact that this firm of Sinzheimer & Deutsch had a factory in connection with their business at North Wales, in the State of Pennsylvania?

A. They had.

X Q. 43. When?

A. The only explanation I could give is that I believe they had their place up their for five years. They gave it up within a few months of the failure of the firm.

X Q. 44. About what year was this—that is, the failure?

A. About 1884.

X Q. 45. Were you ever engaged in this North Wales factory?

A. I was not employed in their factory at North Wales.

X Q. 46. Did you see all the shirts that were manufactured by this firm of Sinzheimer and Deutsch during the time that you were employed there?

A. No, sir; I did not see the work that came from North Wales—not all of it.

X Q. 47. Are you, then, prepared to state that you personally know all the different styles of shirts that were manufactured by this firm during the time you were employed there?

A. Principally all, with the exception of the North Wales make.

X Q. 48. You are not, then, prepared to state that you have any knowledge of the work that was done in the North Wales factory?

398 A. Not as regards to the shirts. The bosoms and cuffs were made in the factory both in Camden and in Philadelphia, and were shipped to North Wales that way.

X Q. 49. Are you prepared to say that all the bosoms and cuffs that Sinzheimer & Deutsch used in the North Wales factory were made in the Camden and Philadelphia factories?

A. Well, I wouldn't swear positively; they might have been, when they had too much work for the hands inside, given out; given out to outside hand; but to my knowledge there never was any bosoms made in North Wales.

X Q. 50. Do you know the different styles of bosoms that Peter Michel cut while you were in the Camden factory which were or may have been then sent to the North Wales factory?

A. As I didn't see Peter Michel cut any work while I worked in Camden, I know nothing about the work that went to North Wales that he cut.

X Q. 51. Not having been employed by this firm of Sinzheimer & Deutsch prior to November, 1881, you are not prepared to state what styles of shirts or bosoms were made by this firm or cut by Peter Michel prior to this date?

A. I am not.

X Q. 52. Do you or do you not know that Peter Michel was em-

ployed by this firm previously to the time you commenced to work for them?

A. I do not; I don't know he was ever employed, to my knowledge, until we went to Carter's alley, which I think was in the spring of 1882.

X Q. 53. From whom did you receive your work while you were engaged with this firm?

A. From any one and every one who would stitch down for me; from anybody that would join on the shoulders for me.

X Q. 54. Do you mean by your answer that you received this work from the operating hands or from the forewoman?

399 A. From the operating hands.

X Q. 55. Do you know from whom the operating hands would receive the work which they would turn over to you?

A. Sometimes they would go down to the cutters for it, and then again it was brought upstairs, and they helped themselves to it; the shirt would pass through the hands of from eight to nine operators before it came into my hands.

X Q. 56. What knowledge have you as to the work which this firm gave to outside hands while you were engaged there?

A. With the exceptions of a few bosoms which were given out, and some common shirts given to Julia Shaw, I have no knowledge that there was any other than that.

X Q. 57. Do you mean to say by your last answer that during the time referred to they did not give work to outside hands?

A. Not in regard to making shirts.

X Q. 58. On what do you base your knowledge?

A. That I never seen any given out or returned in?

X Q. 59. You do not mean to infer from your answer that because you did not see the firm giving shirts to outside hands to finish that they did not, in fact, do so?

A. No, sir; I said nothing of the kind. I said as far as my knowledge wen tthey had only given out shirts to be made by Julia Shaw; but they had given out shirts to be finished—putting in button-holes.

X Q. 60. You do not mean to infer from your answer that because you did not see the firm giving out shirts to outside hands to make up that they did not, in fact, do so?

A. I wish to state that I do not think that they gave any out, with the exceptions of those I have stated, as often we would have to wait for work from a half to three-quarters of an hour.

400 X Q. 61. I do not ask you for your belief or imagination, but my question explicitly states whether you will answer this last question as a positive fact.

A. No; I could not say so, with the exception of Julia Shaw.

X Q. 62. Will you please look at the list produced by you, and marked Sinzheimer-Hagedorn & Newman List, and state if you are prepared to say as a positive fact that the firm of Sinzheimer & Deutsch did not manufacture any other styles of shirts while you were employed there except those referred to by you on this list?

A. Yes; they made one style of shirt marked "Three Stroke;"

also some marked "Two Stroke." Whether they were sold under any other name or no at that time I do not know. They also made a common one, something like the "Lot 15" I referred to. That is all. There was some made at North Wales which I know nothing about, as we made all the fine shirts—the good shirts—in Philadelphia. Most all of the common shirts were made at North Wales, although the bosoms were made at Philadelphia.

X Q. 63. Where was the stock-room of Sinzheimer & Deutsch?

A. At the time he was in Carter's alley the stock-room was in the third floor of the building where we worked. In regard to the Camden, the only knowledge I have of it, it was where the cutting-room and office were in the city of Philadelphia.

X Q. 64. Did you see the stock after it was completed and ready to be disposed of?

A. That that we made in Camden, from the time I went there, I saw unlaundered, and the stock I seen in Philadelphia was from the time it was made to the time of the shipping, laundered and all—from the time it was made, finished, laundered and all—that is, as to these two factories.

401 X Q. 65. Was the stock done up in boxes or in any other form?

A. Those that I saw done were in boxes that mostly hold half a dozen in a box. Further than that I do not state.

X Q. 66. Is it not a fact that this firm put up their stock in boxes, each containing half a dozen shirts?

A. I have seen them put up that way, but whether they shipped them any other way I do not know. This was their general way of putting up their stock.

X Q. 67. Is it not a fact that Sinzheimer & Deutsch, while you were employed there, may have had in these boxes shirts concerning the manufacture or style of which you have no knowledge?

A. They might have, so far as I know.

X Q. 68. Do any of the shirts or bosoms to which your attention has been called in your examination-in-chief contain the name of the maker?

A. Not on the shirt—not that I have any knowledge of. But there are private marks by which I can recognize them as the manufacture of the concern.

X Q. 69. Please examine the shirts in question and state what are the private marks referred to by you.

A. As to Sinzheimer & Deutsch, there is only one shirt here which bears their mark, which is the silk mark "Boss" on the tab.

X Q. 70. Do you recognize this shirt by the tab thereto attached with the words "The Boss" thereon?

A. I recognize the silk tab as the same used by Sinzheimer & Deutsch while in their employ.

X Q. 71. You are not prepared to say as a fact that this shirt was made by Sinzheimer & Deutsch, or their successors, Hagedorn & Newman, are you?

A. That shirt was made by Hagedorn & Newman. It can 402 be told by ripping the collar band and seeing that it is a

patent band, only used since the new firm of Hagedorn & Newman came in; also by the back strip and placket, neither of which were used by Sinzheimer & Deutsch, but only by the firm of Hagedorn & Newman. There is a peculiarity of the cuff which I recognize as made by Hagedorn & Newman—in the stitching—also made by Sinzheimer & Deutsch.

X Q. 72. How do you know that Peter Michel was or is related to Mr. Sinzheimer?

A. For the simple reason that he is married to Mr. Sinzheimer's stepmother and he is the stepfather of two half sisters of Mr. Sinzheimer. I know this from what Mrs. Smith and Nettie have said; also, Nettie lived with Peter Michel and her mother up to a short date, and her mother was Mr. Sinzheimer's stepmother. Mr. Sinzheimer told me so himself; also Nettie and Mrs. Smith. I have heard Nettie Sinzheimer call him father.

X Q. 73. How do you know that Mrs. Baker was employed at Sinzheimer & Deutch's and their successors for fifteen years?

A. The only answer I can give is that I have heard Mrs. Smith and Carrie Baker talking of the time they worked on Arch street. My knowledge is based on what she has told me and what I have heard others say.

X Q. 74. Referring back to the North Wales factory, did I understand you to state correctly that you have no knowledge of what shirts were manufactured there?

A. All I know is there was nothing but common work shipped there; that is what the cutter, the shipping clerk, and Mr. Sinzheimer have said themselves and what work I saw returned to Carter's alley from North Wales, as a great deal of it—the botch-work—I had to recollar band; it was nothing but the common work that I fixed.

X Q. 75. You do not mean to say, Mrs. Moore, that you saw personally all the work that was returned from the North Wales
403 factory to the Philadelphia factory while you were engaged there?

A. I do not. All that I saw was common work.

X. Q. 76. Then, is it not a fact that while you were engaged at the Philadelphia factory this firm could have sent to the North Wales factory bosoms outside of those made in the Philadelphia factory and the shirts returned to the Philadelphia factory in a completed form, the style of which you may never have seen or had any knowledge—?

A. When we first moved to the city to within a year of the failure of the firm they could have done this, but some of the old North Wales hands told me they did not make bosoms there.

The latter part of this answer is objected to as hearsay evidence.

Witness continues: With regard to the last year there wasn't work for either factory to keep them half going; therefore most of the work was done in the city factory.

X Q. 77. Would you undertake to say as a positive fact that this

firm of Sinzheimer & Deutsch, during the time that you were employed by them, did not make a shirt like Defendants' Exhibit A?

A. They did not; not like this shirt.

X Q. 78. Do you say this as a positive fact?

A. I do, as I never saw any of that style of shirt in the place.

X Q. 79. Having already testified that this firm could have manufactured in the North Wales factory shirts the styles of which you never saw and of which you had no knowledge, that they could have been returned to the Philadelphia factory and put in boxes without you ever having seen them, why do you say as a positive fact that they could not have manufactured such a shirt like Defendants' Exhibit A?

A. Not to my knowledge; they were never seen in the fac-
404 tory; at least I never saw them, and I seen pretty much all that was going on around the factory.

X Q. 80. Having been employed from November, 1881, to the spring of 1882 in the Camden factory, and having already stated that the stock-room at this time was located in the city of Philadelphia, are you prepared to say that shirts like Defendants' Exhibit A could not have been made in the North Wales factory and returned to the Philadelphia stock-room during this time of which you have no knowledge and the stock of which you did not see during this time?

A. In regards to the North Wales factory while I worked in Camden, as I stated before, I know nothing about. I only know what was done in the factory in Camden.

X Q. 81. Then is it not a fact that during the time that you were engaged in the Camden factory they could have manufactured in North Wales and returned to the Philadelphia stock-room shirts like Defendants' Exhibit A?

A. I think that is for you to prove. As I told you before, I know nothing whatever of what happened in North Wales at that time.

X Q. 82. Question repeated.

A. As I said before, what is the use of me saying they could or could not when I do not know what they manufactured in the North Wales factory—that is, as to common shirts. As far as I know, that is all they have done—made common shirts there.

X Q. 83. Can you give me an answer of yes or no to my last question put to you?

A. I do not think it is necessary.

Adjourned at 5.30 p. m. until Friday, November 19, 1886, at 9.30 a. m.

405 NEW YORK, *November* 19, 1886.

Met, pursuant to adjournment, at 10 a. m.

Present: Parties as before.

Cross-examination of EMILY C. MOORE continued:

X Q. 84. With whom did you have you first conversation in relation to your giving testimony in this case?

Question objected to as immaterial and irrelevant.

A. In regard to giving testimony, Mr. Skilton himself.

X Q. 85. When?

A. On the 29th of October.

X Q. 86. Did you know on that day that you were to be a witness in this case on the part of the complainants?

Same objection.

A. I did not.

X Q. 87. Who spoke to you for the first time about bound-bosom shirts or about this suit?

Same objection.

A. In regards to this suit coming up, Mr. Skilton. Mr. Sachse, I believe, the man's name is who first spoke to me about bound-bosom shirts.

X Q. 88. When was it that Mr. Sachse first spoke to you about bound-bosom shirts?

A. I think it was the 26th of October.

X Q. 89. This year?

A. Yes, sir.

X Q. 90. Why did you leave the employ of Hagedorn & Newman?

406 Question objected to as not proper cross-examination and as incompetent, irrelevant, and immaterial.

A. Because I didn't wish to work for the firm any longer.

X Q. 91. Is it not a fact that you left their employ on account of their discharging Carrie L. Baker and refusing to keep her in their employ?

A. No, sir; as I left the employ of the firm before we asked the firm to take her back. My main point in leaving the firm was on account of the forelady's treatment of the employees; in fact, I never asked for Carrie Baker to be taken back into the employ of the firm.

X Q. 92. Peter Michel and Alexander Sinzheimer have testified in this case that they made bound-bosom shirts exactly like Defendants' Exhibit A, prior and subsequent to 1874, in and out of the factory of Sinzheimer & Deutsch. Are you now prepared to say that their testimony is not true?

Question objected to on the ground that it is an improper statement as to what has been testified to, and also as incompetent, irrelevant, and immaterial.

Counsel for complainants calls attention to the fact that there is no evidence in the case showing that Sinzheimer & Deutsch made any shirts or were organized as a firm prior to 1874, or that Alexander Sinzheimer made any shirts whatever out of the factory of Sinzheimer & Deutsch like Defendants' Exhibit A subsequent to 1874, and to the attempt to put evidence not on the record into the mouth of this witness.

A. As I am not the judge and jury in this case, how do I know

whether their testimony is true or no. From what I under-
407 stood from the employees, they made nothing but bosoms and hemmed handkerchiefs—that is, I can give the names of three of the old employees who worked there.

The latter part of this answer is objected to as hearsay evidence.

X Q. 93. Then you are not ready and willing to say whether the testimony given by Alexander Sinzheimer and Peter Michel, as to their making bound bosoms or bound-bosom shirts exactly like Defendants' Exhibit A, either prior or subsequent to 1874, is true or false, are you?

Same objection repeated.

A. I am not.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

R. D. Q. 94. Please state why the changes were made in the method of manufacturing the shirts in the factory of Sinzheimer & Deutsch or Hagedorn & Newman from the curved-in form of bosom at the top to the full width shown in the "Dauntless" and other samples produced here by you. What I want to know is the practical reason for the change.

Objected to on the grounds that this evidence is immaterial, irrelevant, incompetent, improper, and covers a period subsequent to the date of the alleged letters patent.

A. In regards to the bosoms being curved at the top when the neck of the shirt was sloped, it is very often the case the neck was too small for the band, when we stretched the neck putting the band
408 on we drawed one side of the bosom lower than the other, and it looked in my eyes like a botched piece of work; also it made a very heavy welt under the collar band, making it difficult to stich down; this was done in Hagedorn & Newman's time—that is, on his style of shirt. When the bosom was cut out full length, extending to the yoke, it made it easier for the operators in collar-banding and made a better finish to the shirt.

R. D. Q. 95. In Sinzheimer & Deutsch's time were any of these bosoms made full width at the top?

Objected to on same grounds.

A. They never made those rounding bosoms at top in Sinzhemier & Deutsch's factory, to my knowledge, while I worked for the firm.

R. D. Q. 96. What were your duties in the factory and what opportunities did you have of seeing work or samples of the different styles of work that was done in the North Wales factory?

Objected to on same grounds.

A. My duties were collar-banding shirts—that is, running them on one way. When the work was shipped from North Wales it came in large packing boxes, and very often some of the shirts—the bands on

the neck was botched, and were brought to me to rip off and sew new ones on; therefore I had a chance to see some of the work that came from North Wales.

R. D. Q. 97. What sort of operators and employees did the work in the North Wales factory, and what were their qualifications in the business?

Objected to on the same grounds.

A. Some of them were farmers' sons and daughters up there, country people, and a great many of the hands were Russian Jew men and women, that knew nothing about the business until taught up there, and cannot at the present time make a shirt out and
409 out; also those that I stated were country hands employed up there, as they only did certain kinds of work, what we called "team" work.

R. D. Q. 98. What amount of work during the term of your employment with Sinzheimer & Deutsch and Hagadorn & Newman was given out to outside hands to be made—much or little?

Objected to on the same grounds.

A. In regards to Sinzheimer & Deutsch, I only know of a few bosoms and some shirts that were given to Julia Shaw—that is, speaking in regards to the North Wales factory and the Philadelphia factory of Sinzheimer & Deutsch. In regards to Hagadorn & Newman, they have shipped out a great deal of work. Some of the work was shipped to a firm by the name of Bloch, in Norristown, I am positive, as I saw some of their marks, yokes, and tabs. They have shipped out case after case, as I have seen the bosoms packed ready for shipping—that is, gotten ready in the operating-room. Also Jake Loeber, Lewis Koster, Peter Michel, cutters in the place of Hagedorn & Newman, told me they were cutting work to be shipped away to be made. Ever since the firm of Hagedorn & Newman has been in Carter's alley they have, more or less, shipped work away to be made.

R. D. Q. 99. Please state how certain you would have been to have known it if, during the time of Sinzheimer & Deutsch, other work besides what you have mentioned had been put out to be made by outside hands or persons.

Objected to on the same grounds.

A. I can only say that I am positive that Julia Shaw received shirts to be made, and there were a few bosoms given out; anything further I do not know, as I am only stating to what I had seen myself.

410 R. D. Q. 100. On what is your opinion based, or your statement, as to what work was sent out to be made outside the factory?

Objected to on same grounds.

A. I can safely say that my own idea and judgment would be that if a firm paid rent for a factory, also hiring an engineer, that they

would not have shipped the work outside while they had these expenses on them, leaving the employees to wait for work in the building.

R. D. Q. 101. How many employees did Sinzheimer & Deutsch have—about?

Objected to on the same grounds.

A. In the North Wales factory I do not know. In the Philadelphia factory they had from 80 to 100 operators. In regard to the rest of the hands I could not say positive.

R. D. Q. 102. In how many instances do you know of the firm of Sinzheimer & Deutsch being so pressed with orders as to have to send work out of the factory to fill them?

Objected to on same grounds.

A. They never did to my knowledge. There was one or two seasons that we worked three nights in the week until nine o'clock, but most of the time I was very fortunate if I got from fifty to sixty dozen shirts to collar-band in a day—that is, in the Philadelphia factory. For part of the time I had either to wait or do other work, and there was only one operator that run on collar bands, and I was that one. With the exception of a short time when I was away and when I first went there for a short time Mary McNully was the collar-bander. She made at the rate of from six to seven and a half dollars a week; so I know she could not have done much, as
411 she would have to collar-band sixty dozen shirts to make $1.20 a day. A fair day's work for me would be from 80 to 100 dozen.

R. D. Q. 103. Was it within the power of the concern to have run the factory more evenings in the week than they ever did if they had been pressed with orders, or what is the fact about that?

A. In regards to the Camden factory, I never worked at night work there. In regards to the Philadelphia factory they would only have had to have gotten the engineer to run extra time, as the hands would have had to have done whatever the firm said or been sent home. There was one season or two—what we call seasons, from six to eight weeks—when we worked until nine o'clock three nights in the week. We never worked every night in the week, not while I worked for the firm.

R. D. Q. 104. What are your feelings towards the firm of Hagedorn & Newman and Alexander Sinzheimer, friendly or unfriendly?

Objected to on same grounds.

A. Friendly, as I have nothing against the firm whatever.

R. D. Q. 105. Were you ever discharged by either of the firms or did you ever have any trouble with either of them personally—with either of the partners?

Objected to on same grounds.

A. No, sir.

Redirect examination closed.

Solicitor for defendants here enters a general objection to the redirect testimony of this witness on the ground that the same is immaterial, irrelevant, incompetent, improper, covers a period subsequent to 1874, the date of the alleged patent, and is in part
412 hearsay evidence, and now gives notice to complainants' solicitor that at the proper time and place he will make a motion to strike the same from the records of this case. Subject, however, to this objection and notice, this witness is recross-examined.

Recross-examination by Mr. TIM:

R. X Q. 106. While you were employed with the firm of Sinzheimer & Deutch, at what hour did you commence and what hour did you cease your work?

A. I always commenced work at 7 o'clock and quit work at quarter of six.

R. X Q. 107. Between these hours where were you so engaged at your work—what part of the building?

A. In the Camden factory, on the last table on the east side of the operating-room. At the time they were getting ready to move I was changed to the west side of the same room on the second floor. In the Philadelphia factory I was on the fourth floor in the operating-room.

R. X Q. 108. Between these hours, and while you were so engaged at your work, were you in the room referred to all the time?

A. That is a simple question any idiot might answer. As I said before, I worked in the fourth floor as an operator while I was at work. How could I be out of the room and running a machine in the fourth floor at the same time? During my working hours—that is, while I had work to do.

R. X Q. 109. Can you state now to the best of your recollection about what length of time you were devoted to your work at any one time without interruption?

A. If we had common work—plenty of it—I had no time to waste on any one, but most all of the time that I worked for Sinz-
413 heimer & Deutsch I had from ten minutes to a day to walk around the building.

R. X Q. 110. Were there not some days when you were employed at Sinzheimer & Deutsch's that you were actively engaged at your work?

A. That I might have had one or two, sometimes three, what I called a good day's work, but, as I said before, I had to wait more days than I ever had for steady work.

R. X Q. 111. While you were engaged in the Camden factory was the work for that factory sent from Philadelphia?

A. It was. The work was cut in Philadelphia and sent to Camden to be made.

R. X Q. 112. After it was made was it returned to the Philadelphia house?

A. As some of it had to be ironed, the laundered work and un-

laundered work was shipped back to the office in Philadelphia—while I worked for the firm, that is.

R. X Q. 113. All the work that was given out by Sinzheimer & Deutsch while you were in their employ was given out by the Philadelphia house and none of it from the Camden house. Is that so?

A. There was only some shirts given out in Camden from the Camden factory to finishers—that is, making button-holes and finishing off.

R. X Q. 114. In the first instance, where did the work come from?

A. It came from their cutting-room in Philadelphia at the time I worked for the firm.

R. X Q. 115. While you were engaged in the Camden factory, were you at any time in the Philadelphia office and salesroom from which the work was sent to the Camden factory?

A. I was not.

R. X Q. 116. While you were engaged in Philadelphia factory where was the office and salesroom located?

A. On the third floor, 212 to 224 Carter's alley.

414 R. X Q. 117. At this time you were located in the fourth floor, were you not?

A. I was.

R. X Q. 118. While you were engaged in the Camden factory are you able to say, of your own knowledge, whether Sinzheimer & Deutsch gave to outside persons any work or shirts to be made up?

A. I have no knowledge whatever.

R. X Q. 119. You are not prepared to say how many shirts were manufactured by this firm during the time that you were employed by them?

A. In regards to the Camden factory I could not state. The amount of work in Philadelphia that was done averaged from 40 to 80 dozen per day; but Mr. Sinzheimer told me that North Wales turned out twice the amount of work that we done in the Philadelphia factory. I made answer and said, A good reason why, as North Wales received the common work and we did nothing but the good work. He laughed and said it was so.

The latter part of this answer is objected to as irresponsive and hearsay.

R. X Q. 120. Then, when you answered Mr. Skilton's question in redirect examination and stated that Julia Shaw was the only person outside of the factory who received work from this firm, were you testifying from your belief or from positive knowledge?

A. From positive knowledge—that is, I am positive Julia Shaw made up shirts outside of the factory.

R. X Q. 121. I am not asking you whether Julia Shaw did or did not work for this firm in any capacity; but I asked you whether when you testified that she was the only one who did outside work whether you based your testimony upon belief or upon positive knowledge. My question refers to making up shirts.

415 A. As far as I saw myself, Julia Shaw was the only one that received shirts to make up during the time that I worked there. If they gave any out I did not see it.

R. X Q. 122. Then, when you testified that Julia Shaw was the only one who received outside work, you were testifying from mere supposition and belief. Is that not so?

A. No, sir. I don't wish to state or say anything that I have not seen in regard to giving out of the work myself.

R. X Q. 123. Then why have you stated, in answer to questions put to you yesterday and to-day, in such positive terms that this firm did not give work to outside hands while you were in their employ?

A. If they did I never saw it.

R. X Q. 124. That is no answer to my question, and it is repeated to you for an answer.

Question objected to as misrepresenting or not correctly representing what the witness has said; and the solicitor for defendants is requested to call the attention of the witness to the previous answers to which he refers in order that she may correctly understand the question.

A. I do not think that I said positively that they never gave out work to outside hands outside of those that I stated.

R. X Q. 125. Then, when you stated, as you have said here, that they did not give shirts to outside hands except Julia Shaw, your testimony in this respect was based upon your supposition and belief, and not upon any positive or personal knowledge. Is that so?

A. I have only stated that I have seen the shirts given to Julia Shaw; the outside hands, if they ever gave them any shirts to make up I did not see them.

416 R. X Q. 126. In answer to Mr. Skilton's questions did you intend to mean or infer that this firm did not give shirts to outside hands to be made up, exclusive of Julia Shaw?

Question objected to as incompetent, the witness being here to testify to facts and not to draw inferences.

A. I think that Mr. Skilton perfectly understood what I referred to; that I only gave the testimony to what I had seen personally.

R. X Q. 127. Question repeated.

The solicitor for defendants is requested to point out to the witness the particular answers which he desires the witness to construe, as the witness states that she is uncertain as to the meaning of the question and has endeavored to answer the question as previously put as she understands it.

Solicitor for defendants denies most emphatically that this witness has stated that she does not understand the question; that the witness herself is the best judge of her ability to understand the question; that she is now under cross-examination, and counsel is not required or compelled to point out or read the direct examination unless he so desires.

A. Well, as I said before, the work that was given to Julia Shaw was the only work I seen. As to any other work I do not know, as I never seen any given out—that is, in regards to making up shirts.

R. X Q. 128. Then it is a fact that while you were employed by this firm, and notwithstanding the testimony given by you here in this case, this firm could and in fact may have given shirts to
417 be made up outside of the factory, exclusive of Julia Shaw?

A. They could have, but I could not say whether they did or did not.

R. X Q. 129. Were you ever in the North Wales factory?

A. I was not.

R. X Q. 130. Are you able to say from your own knowledge, never having been there, who the employees were?

A. I could name a great many of them that came direct from the North Wales factory down to our place on Carter's street to work.

R. X Q. 131. I do not ask you who came to work from that factory, but I simply ask you whether you are able to state from your own knowledge, never having been in this factory, who were the employees.

A. No.

R. X Q. 132. Then, when you stated in your redirect examination who composed the employees of that factory, were you testifying from personal knowledge or from information derived through other source?

A. From information derived from other source; from information received from Mr. Sinzheimer; also Nettie Sinzheimer, Mrs. Smith, and the employees that worked there. After the old firm of Sinzheimer & Deutsch closed their place at North Wales those hands afterwards were brought to the Carter's-street factory.

The latter part of this answer objected to on the ground that it is hearsay evidence and irresponsive to the question.

R. X Q. 133. Is your testimony in the redirect examination as to Mary McNully based upon information you received from her?

A. Yes; what she told me herself.

418 R. X Q. 134. All the testimony which you have given in this case relates to a period from November, 1881, to about October the first, 1886, with the exception of a period of four months about the summer of 1882; is that so?

A. Yes.

R. X Q. 135. You do not intend that your testimony shall cover the period of four months, during which time you were absent from the firm of Sinzheimer & Deutsch?

Question objected to as improper in calling for the intent of the witness. The testimony shows for itself.

A. In regards to the four months of time in which I was away from the factory I visited the factory frequently—that is, after three o'clock—and most all the shirt hands—that is, principally—were employed on jerseys, and it was dull in the shirt trade at that time. I couldn't state what amount of shirts was made during those months.

R. X Q. 136. Question repeated.

A. No; I don't intend the testimony to cover that four months.

Recross-examination closed.

Re-redirect examination by Mr. SKILTON:

R. R. D. Q. 137. How were you and the other shirt operators in the employ of Sinzheimer & Deutsch paid—by the day or by the piece?

Objected to as immaterial, irrelevant, incompetent, improper, leading, and not proper redirect examination.

A. There was two or three paid by the day; the rest of the operators were paid by the piece.

R. R. D. Q. 138. What opportunity was there, if any, for the
419 shirt operators to know or obtain knowledge that work was sent out to outside hands by the firm, if such was their practice?

Objected to on same grounds.

A. The knowledge the hands could have received would have been through the cutters or from seeing it gotten ready to ship out while waiting for work and walking around the factory.

R. R. D. Q. 139. Under those circumstances would or would not the shirt operators have been likely to know it if the firm were sending work out to outsiders?

Objected to on the same grounds, and upon the further ground that the question solicits an answer from this witness as to the knowledge and opportunities afforded to other and third persons.

A. They would, as we often asked the question of the cutters whether they were shipping out work or not. They would say yes or no.

R. R. D. Q. 140. What was your own practice in that regard as to making inquiries and taking observations on the subject?

Objected to on the same grounds, and further on the ground that this embodies hearsay evidence.

A. Very frequently I have gone to the cutters on the third floor for odd bands and would ask them the question whether we were dull, and, if not, what became of the work, as we would have none upstairs, as was very often the case—that is, not sufficient work to keep us employed steady.

R. R. D. Q. 141. Will you please state whether or not with
420 the opportunities you had the firm could have sent out work to outsiders without your obtaining in some manner a knowledge of it?

Objected to on the same grounds.

A. It might have been done; if so, not to my knowledge.

R. R. D. Q. 142. State what was the habit of the shirt operators as to consulting together and comparing notes about the work.

Objected to on the same grounds.

A. They compared notes a great deal. The way they compared notes was by the different hands taking out certain parts of work, such as putting in bosoms. Taking four or five hands at the one branch of work, there would be a jealousy if they did not make equal pay; therefore they would often compare notes and to the amount of work they could do in a day, and if any of the hands found that work was being shipped outside they found a great deal of fault. There was no trouble for the operators to get information in the regards to the way they worked.

R. R. D. Q. 143. Outside of your personal knowledge what is your information and belief as to the firm sending out work to outsiders besides Julia Shaw?

Objected to on same ground.

A. I never heard any of the employees that I remember of say there was work shipped outside of the factories.

Re-redirect examination closed.

Solicitor for defendants enters a general objection to the re-redirect testimony of this witness on the grounds that the same is im-
421 material, irrelevant, incompetent, improper, and hearsay, and gives notice to the solicitor for complainants that at the proper time and place he will move to strike the same from the record of this case.

EMILY C. MOORE.

Sworn to before me this 19th day of November, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Recess at 1.40 to 2.45 p. m.

After Recess.

Dr. GEORGE H. BENJAMIN, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. You have testified on behalf of complainants in the *prima facie* branch of this case, have you not?

A. I have.

Q. 2. I submit for your examination Complainants' Exhibit Jeddo Edge, O. S. I. Will you please point out the characteristic features of this exhibit?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. I have examined the exhibit referred to in the question, and I find it to consist of a folded strip of cambric within which is included a cord; a line of stitching is carried through the strip so as to retain the cord, forming substantially what is known as a piping.

422 Q. 3. I place in your hand Complainants' Exhibit Roman Cord, 1868–'9, and ask you the same question in regard to the same.

Question objected to on the same grounds.

A. On examination of the exhibit I find it to consist of a strip of colored fabric containing a cord, substantially as in the former exhibit. I find also a strip of folded cambric, the edges of which are turned in, applied over the raw edges of the colored strip, in effect forming, when the parts are attached together by the line of stitching shown, what I should call a bound piping, a piping such as could be applied upon the surface of a garment in contradistinction to a piping applied along a pleat or in other position where the raw edges would have to be concealed by the juxtaposition and relation of the parts.

Q. 4. I place in your hands Complainants' Exhibit Three Roman-Cord Collars and repeat question 2 as to the same.

Objected to on the same grounds.

A. On examination of the exhibit I find them to be collars such as are ordinarily applied to night shirts and the like, and upon the outer face of the collar I find applied a Roman cord or what I have called a "bound piping," in all respects similar in construction to the exhibit last examined. The object of this cord as applied to the surface of a collar or other location and upon an article intended to be starched I conceive to be twofold—first, for ornamentation, and, second, by reason of its capacity to absorb starch, to stiffen and make more firm the article to which it is applied.

Q. 5. I also place in your hands Complainants' Exhibit Cluett Bound Bosom and repeat the question.

423 A. I have examined the Exhibit Cluett Bound Bosom and find it consists of what is known in the trade as a "dicky," a detached bosom, such as is adapted to be used over flannel shirts. This dicky consists of a pleated front piece of linen and a back of coarse muslin; in general configuration it simulates the form of a shield, the upper edges of which are curved inward towards the median line of the collar. The edge of the dicky I find to be covered with a folded binding, the edges of which are turned in and under, and such binding attached to the dicky by a line of stitching passing through both folds of the binding. This binding appears to be made of a bias strip of linen. A similar binding is carried around the neck of the dicky, and a tag with a button-hole is arranged to fasten the dicky over the collar button. The objects of this binding I understand to be for the purpose of covering the raw edges of the layers in the bosom, substantially in the same manner that the binding covers the raw edges of the piping in Complainants' Exhibit Roman Cord. The binding serves to pocket and include the raw edges of the layers of the shirt bosom, and when secured to the shirt bosom likewise has its own raw edges included. The office of the binding I understand to be also, as in the case of the bound piping shown in Complainants' Exhibit Three Roman-Cord

Collars, to stiffen the edge of the dicky to which it is applied. As a further object I may mention that of ornamentation, producing, when combined with the other parts, a better-looking and higher-finished article of wearing apparel.

Q. 6. I now place in your hands a certified copy of the letters patent No. 161,205, granted to Robert Cluett March 23, 1875, and I ask you to examine the same and explain the characteristics of the invention there shown.

Objected to on the same grounds.

424 A. On examination of the patent referred to in the question I find it to be for an improvement in shirt bosoms, and the objects of the invention are stated to be "to provide for freer motion of the shoulders of the wearer and obviate the defects in a shirt bosom of the full usual width, general shape and form at the top, or without substantial change in this part of its contour, so that the rumpling, wrinkling, and misfitting of the bosom frequently existing may be prevented and the comfort of the wearer thereby promoted." I find it also stated that a further object is to produce an increased thickness or stiffness on a line drawn across the bosom at the bottom or front of the neck band and traversing the two narrow projections or extensions of the bosom which pass upwards to the shoulder seams, which line of stiffness has the tendency to resist any rumple coming from the motion of the shoulders above or wrinkles due to displacement in washing and ironing; and, further, as a whole, to keep the exposed portions of the bosom extended flat under all conditions of wear. Referring to the specification and drawings, I find shown and described a shirt body and a shirt bosom of the laid-on type, the bosom to be made of two or more thicknesses of material in the main part and a less number of thicknesses in that portion which is carried upward to the shoulder seams. The main portion of the bosom is described as carried up to a line traversing the bottom of the neck band and then turned diagonally inward and upward to about the middle portion of the neck band between the shoulder seam and median line of the collar band. The superficial layers of the bosom are carried upward directly to the shoulder seam, although I do not understand that this superficial layer or layers must necessarily be carried to the shoulder seam, but can be stopped at the same point as the under layers or what is denominated the "main part." At the upper portion
425 of the bosom, where the main part is directed toward the collar band, the specification says, a welt or seam may be formed by folding over the upper edge of one or more plies of the bosom or its linings or in any suitable known way; and the specification continues, "and should be securely stitched to prevent displacement during the washing process, and the stitching may be to and through the front or back layers of the bosom and to and through all or any of the several layers constituting the shirt bosom." This I understand to mean that the "main part," so called, may be included in the welt seam alone or all the layers of the bosom included. The invention broadly I conceive to be for

a welt, a stiffening piece at the upper edge of the bosom, and having for its object to stiffen the upper edge of the bosom, the stiffening being accomplished by reason of the increased thicknessas of material and by reason of the absorbed starch in the laundrying process. Referring to the claims, I find them to include, first, the welt and its location; second, a welt formed incidently with the bosom; third, a welt and a shirt bosom, there being no definition in the latter claim or limitation other than that defining its relation to the shirt bosom—I mean to say the length or the extent that the welt may be extended is not specified. I would add that the bosom is applied to the body of the shirt over that portion below the welt by turning in the several layers of the bosom and then fastening by a line of stitching. The invention is, broadly, the welt, however formed.

Q. 7. I now call your attention to the devices and combination of devices shown in letters patent No. 153,367, granted to J. H. Myers July 21, 1874, and I repeat the last question in relation thereto.

A. An examination of the specification and drawings of this patent shows that the invention described therein is substantially similar in all essential particulars to that shown and described
426 in the patent of Cluett No. 161,205, which formed the basis of my last answer. The invention is stated to be for an improvement in shirt bosoms, and provides for stiffening strips formed and arranged in and across the lower parts of the upwardly extended portion of the bosom. The drawings of the patent show that the layers of the bosom, which form the "main portion" in the Cluett patent, are substantially similar in shape and are inclined diagonally inward and upward from the line of the bottom of the collar. This patent states that the stiffening strips may be formed substantially similar to the welts of the Cluett device. The only difference which I am able to observe is that special mention is made in this patent of the fact that the stiffening strips may be formed by securing separate strips of any suitable fabric by means of stitches passing through such strips and the layer or layers of the bosom. The function of the strip and welt is evidently identical; both serve to stiffen the upper portion of the bosom.

The examination of this witness is adjourned to Saturday, November 20, 1886, at 10 a. m. It is now 4.50 p. m.

Solicitor for complainants here notifies solicitor for defendants that he will take the testimony on behalf of complainants in the city of Troy on Monday, November the 22d, 1886, at 10 o'clock a. m., before United States Commissioner J. M. Landon, at his office on State street; and the solicitor for defendants is invited to be present in attendance upon the examination.

427 NEW YORK, *November* 20, 1886.

Met, pursuant to adjournment, at 10 a. m.

Present: Same parties.

Examination of Dr. BENJAMIN resumed:

Answer continued: The position of the seam, welt, or strip I do not consider to be limited to that shown in the drawings of either the Cluett or the Myers patent under consideration, and it is expressly stated in the specification that the position of the strip may be differentiated in accordance with the form of the wearer and evidently to meet other conditions. The object of the welt or seam is to stiffen the upper portion of the bosom, and it is immaterial what may be its relation to the bosom so long as it accomplishes the objects stated to be the intent of the invention.

Solicitor for complainants offers in evidence a certified copy of the Patent Office file wrapper and contents in the matter of the interference between James H. Myers and Robert Cluett, applicant, application dated April 8, 1873, on behalf of complainants, and the same is marked Complainants' Exhibit Myers-Cluett Interference File Wrapper and Contents, E. S. B., Sp. Ex., November 20, 1886.

Q. 8. In the third clause of the specification of the letters patent No. 161,205 granted to Robert Cluett there is a reference to previous methods of accomplishing the same object. What do you understand to be the characteristics of the shirt bosoms there referred to?

Objected to on the ground that it is immaterial, incompetent and irrelevant, and improper.

428 A. Referring to the clause in question, I find stated: "The same objects are sought to be accomplished by drawing or curving in the upper part of the bosom on each side of and to the neck band." This I understand to mean that it had been sought to stiffen the upper portion of the shirt at or about the neck band by curving inward the upper and outer edge of the bosom. By so curving in this upper and outer edge there would be a space left between the curved edges of the bosom and the shoulder seam, which, not being as thick—the space—as the bosom, would present points of flexure, thus allowing mobility of the shoulders, the turned-over and curved edge of the bosom simulating and having the same function of the welt seam described in the patent.

Q. 9. Please examine Complainants' Exhibit Cluett File and Contents, Application February 17, 1873, and explain the nature of the devices shown in that application.

Objected to on same grounds.

A. Upon examination of the file in question I find a shirt bosom shown and described in which the upper part of the bosom is drawn or curved in towards the neck band, substantially that supposed by me in my previous answer. The drawing indicates what I take to be a laid-on bosom, approximately shield-shaped, curved upper edges, and straight across the bottom. Its method of attachment to

the shirt body is apparently that commonly in use at the date of this application, to wit, 1873, and consists of turning in the plies of the bosom and securing them by one or more lines of stitching.

Q. 10. What methods were in use prior to the date of complainants' bound-bosom patent for stiffening and preserving the form of shirt bosoms, or, in other words, preventing their wrinkling or rumpling?

429 A. Prior to date of complainants' patent I find that frames of wood, iron, steel, whalebone, rubber, and other similar materials were constructed and adapted to be applied behind the bosom, to be inserted in its edges, to be pinned or otherwise fastened thereto, and having for their object to preserve the surface of the bosom flat. Such devices are described in patents No. 116,687, July 4, 1871, Calvin Crowell; No. 103,232, May 17, 1870, M. Palmer, inventor; No. 139,797, June 10, 1873, I. L. Landis; No. 140,373, July 1, 1873, George F. Johnson; No. 140,537, July 1, 1873, I. M. Post; No. 146,919, January 27, 1874, I. L. Landis; No. 147,484, February 17, 1874, T. L. Dalton; No. 147,573, T. J. Richards, February 17, 1874; No. 150,631, A. W. Thomas, May 5, 1874; No. 153,444, July 28, 1874, J. M. Maurer; No. 156,155, October 20, 1874, George E. Hall. In addition to the mechanical devices described I find there were various other means employed, such as straps, as shown in patent No. 129,994, July 16, 1872, George W. Wright. In detached bosoms—that is, dickies—various means were used to stiffen the part, such as inserting behind the front layer a piece of rigid—or comparatively so—fabric, and as shown in patent No. 127,974, June 18, 1872, George Harrington. Various other means were used to preserve the bosom flat while not serving to stiffen the bosom. In patent No. 130,056, July 30, 1872, C. J. Kaskel, a square and approximately shield-shaped bosom is shown, wherein the under layers of the bosom are cut away in a line across the bosom, "which is (the patent says) to form a hinge and be much more flexible than any other part of the bosom." Instead of forming a hinge, which method was varied by a number of different inventors, we find that the lower portion of the bosom is shown in many patents as left free and unattached to the shirt. Patent No. 135,478, February 4, 1873, C. W. Jenks, inventor, shows such an arrangement of parts.

430 The above patents show substantially all the different methods employed prior to the date of complainants' patent. The specification of the patent of Kaskel before referred to very fully points out the difficulties encountered in producing a perfectly fitting shirt and the tendency of the bosom to break or crinkle, and may be referred to as showing the objections to shirts as made at the date of this patent, and also the difficulties sought to be remedied by the various devices, mechanical and otherwise, referred to in the patents above specified by number. The state of the art at about the date of these patents would seem to indicate that the whole tendency of invention in this branch of industry was towards devising a means to preserve a shirt bosom flat and to prevent its rumpling and breaking.

Q. 11. In any of these prior methods referred to in your last answer do you find that a binding was used for a similar purpose?

A. My examination of the state of the art prior to the date of complainants' patent does not show and neither do I find indicated that a binding or anything approximating thereto was used for stiffening or any other purpose. The only example of a stiffening device avowedly for that purpose is found in the patents of Cluett and Myers considered in my previous answers.

Q. 12. The previous question repeated as to the general state of the art, outside of the particular patents referred to in your answer to Q. 10.

A. I am not aware of any devices having been used in the general state of the art to perform the stiffening function of a binding other than those referred to by me in my previous answers. I refer to Complainants' Exhibit Roman Cord, and possibly to the Complainants' Exhibit Bound Dicky, submitted to me, although personally I have no knowledge that such dicky was in use or had been made by complainants prior to the date of their patent in suit.

Q. 13. What does your knowledge and examination of
431 the state of the art subsequent to the date of the complainants' bound-bosom patent disclose or show as to methods of stiffening the bosom of shirts for the purpose of preserving them from rumpling, and so forth, if anything?

Objected to on same grounds, and that the time referred to covers a period subsequent to the date of the alleged letters patent.

A. The state of the art subsequent to the date of complainants' patent in suit shows that the methods employed to stiffen a bosom at its edges has been and is almost invariably a binding or modifications of a binding or combinations of the shirt body and the shirt bosom forming equivalents of a binding. The state of the art further shows that since the date of this patent the inventive ability exercised in producing wire frames, cages, stiffeners, and the like almost wholly ceased to be thus engaged, and, if my recollection is correct, there are but two patents in the subsequent state of the art, and those within a year's time, which show any such mechanical device. I would state that I am familiar with the state of the art, and have made an examination for the purpose of instructing myself as to the tendency and progress of invention in the direction indicated.

Recess until 2 p. m.

It is agreed that complainants' counsel *have* the right to examine witnesses on Wednesday next, the 24th, 1886, in place of Monday, November 22, 1886, which, under the order, is the last day which he has in which to examine witnesses.

Solicitor for complainants hereby notifies the solicitor and
432 counsel for defendants that the examination heretofore noticed for Monday, the 22d inst., will be adjourned to Wednesday, at the same place and hour, before Commissioner Landon, in the city of Troy, N. Y.

After recess, resumed.

Q. 14. Please compare the devices and combination of devices of the patent of November 17, 1874, here in suit, with those as to which you have heretofore testified, of an anterior date, and also include in your comparison the Roman cord, the Cluett bound bosom, three Roman-cord collars, the Cluett patent 161,205, and the Myers patent 153,367 of July 21, 1874, with a particular view to the nature of the invention disclosed in complainants' bound-bosom patent here in suit.

A. I have made the comparison called for in the question, and to my mind the Cluett patent in suit embodies all of the different devices to which my attention has been called. In other words, I am of the opinion that the bound-bosom shirt described in the Cluett patent in suit is the culmination of different lines of invention, differing as elements, but all tending in the same direction. To use a simile, the Cluett bound-bosom patent is the trunk of a tree. The Roman cord, the Cluett bound bosom (dicky), the curved bosom shirt of February 17, 1873, the welt and stiffening pieces described in patents 161,205, R. Cluett, and 153,367, J. H. Myers, are the tendrils—the roots—all starting from different directions towards the trunk and feeders thereto. Looking at these exhibits more in detail, we find in the Roman cord the embodiment of the idea of the stiffening function and likewise the binding, which includes all raw edges. In the Cluett bound bosom (dicky) we have a bosom with the binding from the Roman cord, including the raw edges of the bosom, and likewise serving to stiffen the edge of the bosom.

433 Here, in my opinion, is the second step in the genesis of the device embodied in the complainants' patent in suit. Referring to the Exhibit Cluett Curved-Bosom Shirt, Feb. 17, 1873, we find that the bosom shown in the drawing at its upper part is substantially similar in shape to that of Cluett bound bosom (dicky), but there is no evidence in the exhibit that a binding was used. In this exhibit we have the third step in the genesis of the invention—that is, the combination of a shirt body with a bosom the upper edges of which are curved inward toward the collar band. An examination of this exhibit further reveals the fact that to apply such a bosom to a shirt body by merely turning in the edges would be very difficult, owing to the fulling up of the layers of the bosom under the presser-foot of the sewing-machine, and thereby producing irregularity of work, a shirt in which the appearance is poor. In this exhibit we do not find that the raw edges are pocketed. The device was not successful, as shown by the fact that in his patent of March 23, 1875, Cluett makes an attempt in another direction. He finds it necessary to stiffen the bosom in order to make it retain its shape, and to accomplish this he provides for the welt at the upper edge of the bosom. In point of fact, he takes the curved bosom of February 17, applies a superficial layer as the face of the bosom, and carries the superficial layer to the shoulder seams, the curved or angular edge of the lower layers of the bosom forming practically what is the equivalent of the welt; and here we have the fourth step—an applied bosom with a thickened edge. It is true that this thickened edge was limited to the extensions of the bosom towards

the shoulder seams—that is to say, the drawings only show its application to that part of the shirt bosom, but I do not understand the claims to thus limit it. Irrespective of its extent, the welt formed a stiffened edge, a protecting edge, a thickened edge, one which would absorb starch, but not a binding. This device, like the previously described curved-bosom shirt, is somewhat difficult to manufacture.

434 To put on the first layers of the bosom, to run the welt seam, and then fasten down the outside layer of the bosom requires time. Referring, now, back to the Cluett bound bosom (dicky), we see that if we place such a bosom over a shirt front and stitch it to the shirt front that we have the device described in the Cluett patent bound-bosom shirt, with the single exception that the upper edge of the bosom in the Cluett patent instead of being curved inwards is carried straight up to the shoulder seam, experience, in all probability, having developed the fact that the stiffening strip at the edge of the bosom—*i. e.*, the binding—was sufficient to prevent rumpling without directing it across the upper part of the shirt, as in the manner of the welt. An examination of the exhibits further reveals the fact that each successive step as pointed out has tended to simplify the manufacture. The Cluett curved-bosom shirt, by reason of the turned-in edges, in configuration is undoubtedly the most difficult to manufacture; next the Cluett welt shirt, not so difficult, but still difficult, and by its manufacture accomplishing one further step towards the device as a whole; thirdly and lastly, the device shown in complainants' patent in suit, undoubtedly the simplest of them all, and still remaining so, notwithstanding the multitude of different inventions and patents which have since been taken out, the ostensible and stated objects of which have been to produce a substantially similar article—that is, a shirt with a bound bosom or its equivalent, one in which the loose threads and straying edges of the several parts are concealed, a bosom provided with a stiffening edge. It is evident to me (and my opinion is derived only from an examination of the exhibits) that the idea of the stiffening edge, as exemplified in the welt, naturally led to the conclusion that if a stiffening edge was a good thing in one part of the bosom

435 it was likely to be good all around the bosom, and the question for the inventor was how to get it around the bosom so that it should accomplish the best results and yet facilitate the manufacture, which was a very important consideration. I am led to the conclusions, as stated, from an examination of the exhibits and also from the general evidence afforded in the state of the art relating to prior patents for stiffening devices—devices for stiffening shirt bosoms—to accomplish the stiffening result seems to me to have been the point aimed at by Mr. Cluett in the various devices produced by him—first, the Roman cord; then the welt-bound dicky, and, finally, the bound-bosom shirt. That there are other advantages incident to the binding is without question, but they are in a measure incidental to the juxtaposition of the parts. I may state, in conclusion to my answer to this question and as a basis for my opinion, that the bound-bosom shirt was the culmination of the different steps, each forming a part thereof, shown in the exhibits examined;

that there was what may be called the acquiescence of invention in the minds of others experimenting in the same field. Before this device was completed all sorts and kinds of devices were employed, nor was there the slightest similarity in them; but since the date of this patent there has been the most surprising similarity. The path pointed out has been universally followed. The inventor of the device has added many branches to the trunk, and many parasites have drawn their sustenance therefrom. I wish to state on the record that I am not attempting to define what constitutes invention, and my explanation has been made with the object of pointing out what appear to my mind to be the steps which led up to the completed whole, as shown in the Cluett bound-bosom patent, to me substantive evidence that the device therein described and shown was the legitimate outcome of careful and painstaking investigation and experiment.

436 Q. 15. I call your attention to the list of patents found on page 297 of defendants' pleadings and proofs herein, folios 889 and 890, and ask you to compare the devices and combination of devices shown in the several patents there mentioned with those shown in the bound-bosom patent here in suit.

A. I have examined the patents referred to in the question, and I find that they, each and all, contain the elements specifically pointed out by me in my *prima facie* examination in this case and in my construction of the Cluett patent in suit, to wit, a shirt body, a shirt bosom, a binding for said shirt bosom, and a shirt bosom attached to the shirt body by one or more lines of stitching. The patents show various modifications, but in all essential particulars they are, in my opinion, mere modifications of the Cluett device.

Q. 16. I call your attention to the several shirts put in evidence on the 17th of November, 1886, according to the numbers given the same as follows: Nos. 2, 3, 4, 5, 7, and 8, and to make the same comparison called for in the last question.

This and the previous question and answer are objected to on the grounds before mentioned and that these exhibits refer to a time subsequent to the date of the alleged letters patent.

A. An examination of the exhibits referred to shows them all to contain the elements of invention as specified by me in my answer to the last question.

Q. 17. Are you aware of any other instances of the use of the devices and combination of devices shown in the bound-bosom patent and not submitted for your comparison already?

437 Question objected to on the ground that it is too general, and, if it refers to a period subsequent to the date of the alleged letters patent here in suit, is immaterial, irrelevant, incompetent, and improper.

A. There are a number of other patents containing all the elements of the invention extending from the date of the last patent mentioned in the list up to September, 1886. The ingenuity of invention still continues to be extended towards discovering some

method of producing a bound-bosom shirt which shall sufficiently differ from that described in the Cluett patent in suit to enable a patent to be obtained.

Solicitor for complainants here offers in evidence on behalf of complainants Patent Office copies of the ten patents referred to in question and answer 15, and the same are marked in order as complainants' exhibits, with the name of the patentee and the number and date of the patent, as follows:

Complainants' Exhibit William L. Hall Patent, No. 276,809, May 1, 1883, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit I. P. Turner Patent, No. 307,153, October 28, 1884, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit W. L. Hall Patent, No. 308,607, December 2, 1884, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit G. W. Pine Patent, No. 313,520, March 10, 1885, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit M. Hermann Patent, No. 319,487, June 9, 1885, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit M. Hermann Patent, No. 322,717, July 21, 1885, E. S. B., Sp. Ex., November 20, 1886.

438 Complainants' Exhibit M. Hermann Patent, No. 322,718, July 21, 1885, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit W. L. Hall Patent, No. 331,786, December 8, 1885, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit M. Hermann Patent, No. 332,799, December 22, 1885, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit W. L. Hall Patent, No. 336,106, February 16, 1886, E. S. B., Sp. Ex., November 20, 1886.

And, further, solicitor for complainants offers in evidence on their behalf Patent Office copies of the several patents mentioned in the answer to question 10, and the same are marked in the same manner as previously, as follows:

Complainants' Exhibit M. Palmer Patent, No. 103,232, May 17, 1870, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit Calvin Crowell Patent, No. 116,687, July 4, 1871, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit George Harrington Patent, No. 127,974, June 18, 1872, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit George W. Wright Patent, No. 128,994, July 16, 1872, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit C. J. Kaskel Patent, No. 130,056, July 30, 1872, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit C. W. Jenks Patent, No. 135,478, February 4, 1873, E. S. B., Sp. Ex., November 20, 1886.

439 Complainants' Exhibit I. L. Landis Patent, No. 139,797, June 10, 1873, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit George F. Johnson Patent, No. 140,373, July 1, 1873, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit I. M. Post Patent, No. 140,537, July 1, 1873, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit I. L. Landis Patent, No. 146,919, January 27, 1874, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit T. L. Dalton Patent, No. 147,484, February 17, 1874, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit T. J. Richards Patent, No. 147,573, February 17, 1874, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit A. W. Thomas Patent, No. 150,631, May 5, 1874, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit J. M. Maurer Patent, No. 153,444, July 28, 1874, E. S. B., Sp. Ex., November 20, 1886.

Complainants' Exhibit George E. Hall Patent, No. 156,155, October 20, 1874, E. S. B., Sp. Ex., November 20, 1886.

Solicitor for defendants waives the production of certified copies of the two foregoing lists of patents, and accepts the Patent Office printed copies as competent evidence offered in due form.

Q. 18. Please examine letters patent of the United States No. 134,909 granted to A. D. Marr January 14, 1873, for an improvement in shirts, and state what you find to be the invention described therein.

A. I have examined the patent referred to in the question, and I find it to relate to a shirt made of flexible material, such as
440 cloth—a soft flannel shirt—in contradistinction to a muslin or linen shirt adapted to be laundered to fit it for use. The shirt consists of a shirt body and a shirt bosom or shield-shaped piece applied over the bosom of the shirt, the intermediate layers of the shirt bosom being of similar flexible material and folded upon themselves to cover but one-half of the bosom. These intermediate layers are denominated "flies" in the patent. These flies may be of different color, and may be bound with a binding stitched thereon. The outer layer of the shirt bosom is stitched to the body of the shirt at one side, and the opposite side of the bosom as well as the flies are provided with button-holes, buttons being fastened to the body of the shirt; corresponding buttons are fastened on the opposite side of the shirt bosom, so that the bosom can be turned over, thus making what was the first fly the outside of the bosom; this may be repeated with all the flies. It is evident that this shirt is not adapted to be laundered, as it would be quite impracticable to turn over these flies were such the case. It is essentially a soft flexible shirt, such as are commonly used by firemen, mechanics, and the like.

Q. 19. Please look at the Defendants' Exhibit Nicoll English Patent, No. 1594, dated June 24, 1864, and state whether you have examined the same, and compare the devices of the Cluett bound-bosom patent and the devices described therein.

A. I have examined the patent referred to in the question, and I find described therein a method of applying a colored or decorative strip to the edge of an article, and by the word article I understand the opening of a shirt front—that is, the central line of an open-front shirt—and the edges of cuffs. The method of applying this strip consists in stitching it along one edge, turning the strip over, and then stitching the other edge down. The object of this

441 strip I understand to be for decorative purposes, and I find no indication in the patent that this strip performs the office of including or enclosing the raw or ragged edges. Two lines of stitching are required to attach this strip. This strip differs from the binding in the Cluett device in that it performs no office in stiffening the edges of the shirt bosom as a whole, neither does it form a point or means of attachment of the shirt bosom to the shirt body, as in one of the forms indicated in the Cluett patent. I do not consider that this strip was an essential to the shirt in anywise, being really an addendum for decorative purposes.

Adjourned at 4.50 p. m. to Monday, November 22, 1886, at 9 o'clock a. m.

NEW YORK, *November* 22, 1886.

Met, pursuant to adjournment, 10.30 a. m.

Present: Same parties.

It is understood between the solicitors for both parties that the taking of testimony on behalf of complainants on Monday shall be without prejudice to the previous arrangement made for taking testimony in Troy on Wednesday of this week, and it is also understood that notice is to be given to the witnesses Ballin and Frank to appear before Examiner Griffith with their books, to proceed with their examination under the order of Judge Shipman in that regard on Monday, November 22, 1886, at 3 o'clock p. m. This agreement is not to extend beyond Monday, exclusive of Wednesday aforesaid.

442 Examination of Dr. BENJAMIN resumed:

Q. 20. Please examine the two Defendants' Exhibits X and Y, Borchardt Shirts, and compare the same with the devices and combinations of devices shown in the Cluett bound-bosom patent here in suit.

A. Referring to the exhibits in their order: Exhibit X I find to be a shirt front having an inserted square bosom—a ruffled bosom in contradistinction to a plain bosom—an open-front shirt. The ruffling I find to be arranged horizontally across the front of the shirt on each side and to have its outer edges included between the folds of the shirt flies. A narrow strip of muslin is sewed on, stitched fast along the centre of each ruffle, and the inner edges of the ruffles are included between folds of a straight piece of fabric, which is stitched fast to the ruffle and to the shirt body. The edge of the strip on the outer face of the shirt is turned under, but the under face of the strip as well as the edge of the shirt body are left free—that is to say, the raw edges of the strip and shirt body are exposed on the under surface of the shirt. Referring to Exhibit Y, I find the bosom to be made in substantially the same manner as in Exhibit X, the only difference being that the strip which covers the inner edge of the bosom has the edge of its under fold turned under the edge of the shirt body, which is turned upward and outward. Comparing these exhibits with the device shown in the Cluett bound-bosom patent, I find them to be essentially different, in that one is a plain and shield-shaped bosom and the other is a

square and ruffled bosom. With regard to the strip covering the edge of the bosom, one is a bias strip carried around the curves of the bosom and including all the raw and ragged edges, which is not the case in Exhibit X, the strip being straight—that is, cut from a straight piece of goods—and the edges left free and uncon-
443 trolled. In Exhibit Y the strip is likewise straight and its edges are concealed or included. I would, however, point out that from the manner in which this strip is applied to the edge of the bosom it would be practically impossible to stitch and turn it on a curved bosom—impossible not only by the use of a mechanical binder, but when applied by hand—and by impossible I mean impossible to produce a finished salable larticle. Exhibit X is in no sense a finished article. Exhibit Y approaches nearer thereto; but the strip which covers the edges does not perform the function of the binding in the Cluett device, in that its use would not in anywise facilitate the manufacture of the shirt. In my opinion there is no substantial identity between the exhibits and the device shown in the Cluett patent in suit.

Q. 21. Returning for a moment to the subject of the Marr shirt and to Q. 18, on what ground do you state that the Marr patent relates to a soft flannel shirt?

A. The construction of the shirt described in the Marr patent is such as has never been employed for making shirts adapted to be laundered; by laundered I mean starched and ironed, having stiffened bosoms. With a view to settling this question in my own mind I have caused an examination to be made of the models deposited in the Patent Office, and I am informed that the model of the Marr shirt there deposited is made of flannel and is substantially similar to such shirt as I have described in my answer to the previous question relating to the patent of Marr. I am likewise informed by those in the trade who are familiar with the subject that the device made and sold to the trade under this patent was invariably of flannel or similar material.

Q. 22. I call your attention to the invention shown in letters patent No. 146,656, granted to A. Conger January 20, 1874, and ask you to explain the invention shown therein.

444 A. The patent states the device to be a flannel shirt provided with a chest-protecting piece, likewise of flannel, laid over the body of the shirt and having its edges turned in and stitched down.

Q. 23. I call your attention further to Complainants' Exhibits Fisk Ruffled-Bosom Shirt, Sept. 27, 1886, and Fisk Pipe-Edge Shirt, and ask you to explain the construction of the same in comparison with the invention of the Cluett bound-bosom patent here in suit; also the same question as to the Exhibit Fisk Fancy-Trimmed Shirt.

A. Considering the Exhibit Fisk Ruffled-Bosom Shirt first, I find the bosom in all respects similar to that of the Borchardt Exhibits X and Y, with this difference: that the inner edge of the bosom is connected to the body of the shirt by two strips of muslin, one overlaying and one underlaying the bosom and shirt body. The method of attachment is by first stitching the outer edge of the underlying

strip, the edges being turned upward to the ruffling; then stitching the outer edge of this strip to the edge of the shirt body, these edges also being turned upward; then laying over all and so as to cover the included edges the outer strip, its edges being turned in and under and securing it to the bosom by a line of stitching and to the body by a second line of stitching. Referring to Complainants' Exhibit Pipe-Edge Shirt, I find the novelty to consist in a folded piece of colored fabric inserted between the folds of the bosom on the outer ply of the shirt, this folded piece likewise being carried along the edge of the collar and around the edge of the cuffs. The object of the colored strip I understand is solely for decorative purposes. The strip is secured in position by a line of stitching which passes through the folds of the different materials. Holding the bosom or the collar of this shirt between the observer and the light, it will be observed that the raw or ragged edges of the included strip tend to stray across the body of the bosom or material of which the
445 collar is made. Referring to Complainants' Exhibit Fisk Fancy-Trimmed Shirt, I find a strip of colored fabric, the edges of which are turned under and secured by two lines of stitching applied along the outer fly of the shirt, around the collar and the wristbands, and near the edges thereof. The object of this strip I understand to be for decorative purposes. The construction shown in this shirt simulates closely that described in the patent of Nicoll, before referred to by me. The difference, if there be any, consists in applying the strip over the edges of the shirt fly, collar, and wristbands instead of near to the edge, as shown in the exhibit.

Q. 24. I call your attention to the three tracing Exhibits Nos. 1, 2, and 3 made by Ballin, a witness on behalf of defendants, and to his answer to Q. 19, page 301, of Complainants' Record, and ask you to compare the devices so delineated and described with those of the invention shown in the Cluett bound-bosom patent here in suit.

A. Referring to the sketches referred to in the question, I find them to show what I conceive to be a ruffled-bosom shirt, the ruffles arranged substantially as shown in the Borchardt and Fisk Exhibits before referred to, with the exception that the stay piece along the centre of the ruffles, as shown in Fisk and Borchardt Exhibits, is wanting. In drawing No. 1 I find the part marked binding, and at the bottom of the sketch a sectional view of this binding, and which is stated to be one and a quarter inches wide. The binding appears to be a folded binding, the upper fold of which has its edge turned under. The under edge, however, is left straight. Such a binding applied to a ruffled bosom with a single ply would leave the under edge of the binding free and uncontrolled, substantially as in Borchardt Exhibit X. On sheet 3 I find a section of the centre ply, which consists of a folded strip, both edges being turned in, and adapted to be applied along the centre or fly of the shirt.
446 This latter arrangement is that commonly in use for finishing the edge of ruffling; and, as to the alleged binding, it differs from that shown in complainants' patent, in that it does not include all the raw and ragged edges of the shirt bosom and shirt body, neither does it tend to simplify and facilitate the manufacture.

Q. 25. Since you examined the Complainants' Exhibit Fisk Pipe-Edge Shirt the front fly of the bosom has been ripped so as to disclose the relation of the parts to the pipe edge. Please state what you find to be the condition and relation of the parts.

A. I find the bosom to consist of two layers, the edges of which are turned inward and under, and between these edges is included a folded piece of colored fabric containing a cord in its folds and forming what is known as a piping. The construction is that which is generally known to the trade as "pipe edge." It serves little or no purpose except for decoration, and is open to the objection, before referred to, of the loose and ragged edges straying between the layers of the bosom and tending to disfigure it when laundered.

Q. 26. I call your attention to Defendants' Exhibit Z, Borchardt Shirt and Borchardt Overshirt Sketch. Please compare these with the invention of the Cluett patent here in suit.

A. The sketch merely indicates the construction of the shirt. The shirt I find to be formed of flannel, provided with a fly, collar, and pockets. The edges of the fly, collar, and pocket are covered with an ordinary braid, stitched on. In my opinion the braid has no relation to the turned and folded binding of the Cluett device. In this connection I would remark that the braid shown in this shirt is in all probability substantially similar to that employed on the Marr shirt, and I reach this conclusion for the reason that the employment of such braid is common in the trade in finishing the edges of woolen shirts.

447 Q. 27. I refer you to folio 203 of Complainants' Record and the testimony of Spriegel as to the fancy edge, and ask you to make an explanation of the relations of the same to this invention.

A. Upon examination of the question and answer in the folio referred to I understand the fancy strips and cord or corded edge referred to to be for shirts substantially similar to Complainants' Exhibit Fisk Pipe-Edge Shirt. As to the location of this cord, it is very evident, and common sense indicates that, as it was used for decorative purposes merely, it was only applied to those portions of the shirt which were exposed when in use—that is, the fly edge of the bosom and edges of collar and cuffs. I can't conceive of any one applying such an edge around the bosom where it is attached to the shirts. It certainly would not add to its appearance, and would increase the cost of manufacture.

Q. 28. I now place in your hands the Defendants' Exhibit A, together with Alexander Sinzheimer's Sketch, Dec. 10, 1885, and Alexander Sinzheimer's Sketch 2, Dec. 10, 1885. Please examine and compare these with the devices of the invention here in suit.

A. Referring first to Exhibit A, I find it to consist of a shirt body with a laid-on bosom having curved edges and formed of three layers of material. Upon the edges of the bosom I find a bias strip of material, which is applied to the bosom by first approximating the edge of the binding to the edge of the bosom layers and stitching down by a row of stitches, which are close to the edge of the strip and layers. The strip is then turned over the edge of the bosom,

and under the bottom layer of the bosom and between this layer and the shirt body a line of stitching passes through this strip, and in some places through the layers of the bosom and through the shirt body, and serves to secure the bosom to the shirt body. Referring now to the Sinzheimer Sketches Nos. 1 and 2, I find sectional
448 drawings which indicate a method of construction substantially that of shirt, Exhibit A, just examined, the only difference being that the line of stitching 2, which in the Ford shirt, Exhibit A, secures the strip to the shirt bosom, appears in the Sinzheimer Sketches to be carried through the strip, bosom layers, and shirt body. In each case, however, the edge of the lower fold of the strip is left free and uncontrolled between the layer of the shirt bosom and the shirt body and is thereby open to all the objections as stated by me in my *prima facie* examination. In the Cluett device the edges of the binding are both turned under and are included, and the shirt bosom when bound prior to its attachment to the shirt has all the loose threads and raw edges of the binding and bosom plies included in the folds of the binding and secured therein by the line of stitches which secures the binding to the bosom—that is to say, the bosom is substantially in the condition shown in the Exhibit Complainants' Bound Bosom (dicky), whereas in the Ford shirt, Defendants' A, as also in the device indicated in the Sinzheimer Sketches, the edges of the bosom, as well as the edges of the strip, would be free and uncontrolled and thereby have a tendency to unravel, and, further, as a point of great practical importance, to seriously interfere with the rapid handling of the parts in stitching the bosom to the shirt body. In constructing the Cluett bound bosom the folded and turned binding is run on by a special form of binder, the whole being completed by a single line of stitches, and this completed bosom fastened to the shirt in one operation by another line of stitches, whereas in the device shown in the Ford shirt, Exhibit A, it is necessary, prior to applying the bosom to the shirt, to fold the strip, necessitating another operation and consequently enhancing the cost of manufacture. In the Cluett
449 device the last row of stitches is put through a perfectly formed bosom. In Exhibit A the bosom is not completed, and there is liability of the loose threads catching in the presser-foot of the sewing-machine and seriously impeding the rapidity of manufacture. The Ford shirt, Exhibit A, lacks the final step which completed the invention of the Cluett bound-bosom shirt, and that final step I have stated to be the method of binding the edge of the bosom and at the same time controlling all of the free or loose edges of the binding, bosom, and shirt body and the utilization of these raw edges to aid or assist the stiffening effect of the binding. Neither in the Exhibit A nor in the Sinzheimer Sketches do I find the completed invention as set forth in the Cluett bound-bosom patent. If the date of this exhibit were uncertain or proved to be later than that of complainants' patent it would appear to me as an evident attempt by doing less than that described in the patent to avoid responsibility under the patent. In describing the elements which led up to the invention the individual experiments, each, demon-

strated the necessity of certain requirements. I showed what appeared to me to be the chain of invention which led to the completed whole as shown in the bound-bosom patent. We had the stiffening effect of the cord and the controlling effect of the binding on the cord, and so on, each performing its proper function. In Exhibit A we have the stiffening effect of the strip, but only in a partial degree, the effect of the strip as a binding being totally lost in the free and uncontrolled edge left in its mischief-making position between the shirt bosom and the shirt body. On further examination of the shirt, Exhibit A, I find that prior to the application of the strip a line of stitching was run through the separate layers of the bosom, probably for the purpose of securing them together. No such stitching is shown in the Cluett device, as it was not
450 needed, for the reason that by the method employed for applying the binding the layers were held in their proper relation without any line of stitching whatever prior to the application of the binding. I also observe that the tops or upper portions of the bosom on each side are curved inwardly substantially in the manner shown in the Cluett device, application of February 17, 1873, previously referred to.

Direct examination closed.

Cross-examination by DAVID TIM, Esq.:

X Q. 29. Have you at any time been engaged in the shirt business in any of its departments?

A. Never personally engaged as a shirt manufacturer, although I have been consulted as to the different departments of manufacture.

X Q. 30. On what do you base your opinion as to the state of the art as it existed prior to the alleged letters patent in dispute?

A. From an examination of the patents of the United States and England and from a general examination of the literature on the subject.

X Q. 31. You have no practical knowledge upon which to base an opinion as to the state of the art as it existed prior to those letters patent?

A. None, except so far as could be derived from the patents, the literature on the subject, and a general familiarity with the machinery employed in the manufacture, including laundering.

X Q. 32. Would you not say or judge that a person engaged in the manufacture of shirts for about twenty consecutive years was capable and, in fact, able to give the state of the art as to the different manufacture of shirts existing during those twenty years?

A. If such manufacturer were located in a city and manufactured largely for the trade he certainly should be able to express an intelligent opinion. On the other hand, were he located in a
451 country town his opinion would probably be of little value.

X Q. 33. Would not such a person be better able to judge the fact that a shirt like one covered by the complainants' alleged patent was made or introduced into the market during a period

prior to the alleged letters patent covering all the features called for in such letters patent than a person who has not been so engaged in the shirt business?

A. If the question refers to who would be most able to construe the patent, a shirt manufacturer or a man dealing exclusively in patents, I should, without question, say the latter. Patent drafting is a language of itself. I have seldom, if ever, met a layman who could define what the patent was for—that is, the extent or character of the claims.

X Q. 34. Question repeated.

A. The question is obscure, but I think I understand its intent, and, to put it in different language, supposing a shirt containing certain elements put before two men—one a practical shirt manufacturer and the other having no special knowledge of the subject—would not the former be best able to judge as to whether such a shirt had ever been in use? If such is the intent of the question I answer that the manufacturer would undoubtedly be able to tell more about it.

X Q. 35. You do not certainly intend to infer or mean by any of your answers in your direct testimony that a shirt containing all the component parts or alleged patentable features as stated in the complainants' alleged patent was not made so or introduced into the market prior to the application or the date of the Cluett alleged patent?

A. I have never seen or heard of or found described or indicated in any prior patent or device a shirt that contained all the elements described in the patent of the complainants in suit.

X Q. 36. Question repeated.

452 A. I do mean to say and imply that so far as I am aware, and so far as I have been able to discover after having made a careful examination into the state of the art, in the literature of the subject, and the exhibits presented to me that no shirt containing the component parts of complainants' invention was introduced in the market prior to the date of the patent obtained by complainants thereon.

X Q. 37. And your answer, then, is based solely upon the information received from the sources stated in your last answer?

A. Yes; in my last and former answers.

X Q. 38. But is it not a fact that for at least two years prior to 1872 shirts comprising all the patentable features referred to might have been and actually were introduced into the market by shirt manufacturers?

A. I have no knowledge of the fact as to whether they were or were not. All I know is that I have never seen them; and my testimony in this case has been purely that of an expert, based upon matters put before me, and not as to questions of fact relating to shirt manufacture. My testimony has been opinions based upon facts stated to me.

X Q. 39. Is not the Jeddo and the Roman cord intended to give a corded edge to the article to which it is applied?

A. Not necessarily. The Jeddo cord produces a corded edge; the

Roman cord may be applied to the surface of an article, as in Complainants' Exhibit Three Roman Cord Collars.

X Q. 40. Why could not the Jeddo cord be applied for the latter purpose?

A. In the Jeddo cord the edges of the folded strip are raw, and if applied would make a rough or unfinished edge or surface.

X Q. 41. Could not the raw edges of the Jeddo cord be turned in and under and stitched down to the article?

453 A. Undoubtedly.

X Q. 42. Is this not done in the Roman cord with the strip that is attached to the cord itself?

A. The strip which binds the strip which contains the cord has its edges folded in, and the cord-enclosing strip and binding strip are stitched together.

X Q. 43. So far as the corded edge is concerned, is not the Roman cord anticipated by the Jeddo cord?

A. The piping of the Roman cord is the equivalent of the Jeddo cord.

X Q. 44. Is it not a fact that for years previous to 1874 a corded trimming or fluting known as piping trimming was applied to ladies' dresses?

A. I am not prepared to say what was done to ladies' dresses. My experience relates entirely to their external appearance, and whether they contain flutings or pipings or not I do not know.

X Q. 45. Is not the Complainants' Exhibit Fisk Pipe-Edge Shirt, and which was manufactured about the year 1872, a shirt containing the corded edge as shown in Complainants' Exhibit Jeddo Cord?

A. The piped edge of the exhibit referred to is substantially similar to the Jeddo cord.

X Q. 46. What do you understand to be the patentable features of the Cluett patent?

Question withdrawn for the present.

X Q. 47. What do you consider to be the claim of the inventor of the alleged patent in dispute?

Question objected to on the ground that it calls for an usurpation of the functions of the court, in that it asks for a construction of the claims of the patent.

A. I can only answer the question by reading the two claims of the patent, which I will do if the defendants' solicitor requires it.

454 X Q. 48. How do you understand the bosom to be attached to the body of the shirt as shown and described in the alleged patent of complainants?

Question objected to — the ground that the patent shows for itself and that it is not proper subject for rebuttal cross.

A. By one or more lines of stitches.

X Q. 49. Does Complainants' Exhibit Cluett Bound Bosom, E. S. B., Sp. Ex., November 16, 1886, show the bosom detached from the

body of the shirt and covering the features stated in the alleged patent as to the bosom?

A. The exhibit shows one of the methods described in the patent of covering the edges of the bosom.

X Q. 50. From your examination of the state of the art as it existed prior to the date of the patent here in question and from your examination of the said patent are you prepared to say whether one of the features and novelties of the said patent includes the shape or form of the bosom known in the trade as the shield bosom?

A. I am not aware that the patent contains any specific claim for the shield-shaped bosom.

X Q. 51. Why, then, in your examination of exhibits shown to you to-day do you draw a distinction between a square bosom, as shown in some of those exhibits, and the shield bosom in said patent?

A. I have used those terms in describing the shape of the bosom.

X Q. 52. Do you consider, in determining the question here in dispute, that the shape of the bosom makes a material difference?

A. I am not informed what the question in suit is to which you particularly refer. If you refer to the application of a binding to the bosom, then I answer yes; the shape of the bosom in a measure affects the result.

455 X Q. 53. In the examination in the state of the art prior to the Cluett alleged patent can you state whether a shield bosom was known or introduced prior to the date of complainants' alleged patent?

A. My impression is that prior to the date of the Cluett patent bosoms approximating the shield shape were in use, but not shield shaped in their entirety—that is to say, the point or inferior apex of the shield was cut off. This, I understand, was for the purpose of facilitating the attachment of the bosom. Where the bosom is formed full shield shaped and the outer layer turned over the included shirt body (which was the method of manufacture in use prior to the date of the Cluett device) it was very difficult to turn the curves, particularly when done by a turner and a sewing-machine. The curves would wrinkle and lap over and would catch on the under surface of the presser-foot, and to apply such a bosom was considered by the trade extremely difficult. The application of the binding in the Cluett device by the stretching of the bias binding removed this difficulty.

X Q. 54. Do you mean that the lower portion of the bosom was cut off into a square?

A. Yes; cut off straight across.

X Q. 55. I call your attention to letters patent No. 139,933, dated June 17, 1873, to George R. Thomas, of Chicago, Illinois, and ask you if the shape of the bosom there shown does not display a shield form.

A. I have examined the patent referred to in the question, and I find it to show a shirt body of an approximately shield-shaped bosom, and I would particularly call attention to the fact that this bosom is not stitched or otherwise attached over that portion where

the difficulty occurs in the manufacture. As I have explained, the difficulty occurs in putting the bosom on the body, and if you don't sew down the point of the bosom you don't meet the difficulty.

456 X Q. 56. My question to you was a very simple one, and that is whether the bosom there displayed was not of a shield shape.

A. I have already stated that it was approximately a shield shape.

X Q. 57. And is not the extreme end of the bosom rounded in form?

A. The extreme end is rounded in form.

X Q. 58. I now call your attention to letters patent 135,478, dated February 4, 1873, to Charles W. Jenks, and ask you whether the bosom there is not of a shield shape, rounded at the extreme end.

A. The bosom is shield shape, but at its apex is detached from the shirt body, as in the former patent cited.

X Q 59. And in this very patent does not the inventor state the bosom to be of a shield form?

A. There is no question about it, the bosom may be in the form of a shield. A shield-shaped bosom *per se* has nothing to do with a shield-shaped bosom when combined with a shirt body, if the relation of parts when combined produce a new result.

X Q. 60. From your examination of the patent of the complainants and from your testimony to Q. 14, stating that the bound-bosom shirt described in the Cluett patent in suit is the culmination of different lines of invention, and from your testimony stating that the Complainants' Exhibit Cluett Bound Bosom, E. S. B., Sp. Ex., November 16, 1886, is identical to the bosom applied to the body of the shirt, will you please state what you consider to be the novelty displayed in the patent of the complainants in this suit?

A. In answer to the question witness would refer to his *prima facie* direct and cross-examination, in which all this matter was entered into, points of novelty pointed out, and a basis given

457 for any opinion expressed. In his answer in his rebuttal testimony to Q. 14 the witness carefully pointed out, as far as possible, the successive steps which appear to him to be invention, the bearing of each step upon collateral steps, and the general forward tendency which led to the completion of the invention in the bound-bosom patent. He stated that he found the stiffening effect of the binding as well as the inclusion of the raw edges in the Roman cord; the application of this thickening and stiffening effect in the welt patents of Cluett and Myers, curving of the bosom in the application of Cluett, the binding of the bosom in complainants' bound bosom (dicky), and the whole combined in the bound-bosom patent. The bound-bosom patent specifically states that the invention is for a bound bosom or bosom and shirt combined. To simplify the whole matter down, the inventor found that the bound bosom was all to be desired in the points of securing the raw and ragged edges, stiffening the bosom as a whole, and putting the completed bosom in the best possible condition for ready and rapid attachment to the shirt body. Combining the whole, he had the

invention described in his patent. As these different elements do not seem to be scattered throughout the state of the art as elements contained in patents of others, I am naturally led to the conclusion that they were original with Mr. Cluett.

X Q. 61. I find that in all the questions put to you on cross-examination you evade a proper answer to the question and undertake to give histories of different inventions and matters not appertaining to the question. I now respectfully ask you to confine yourself to the questions put and to give direct answers thereto. I desire to know what novel feature you have discovered in the complainants' patent after the bosom has been completed as in the Cluett bound bosom referred to—not as to the bosom itself, but as to its mode of attachment to the body of the shirt.

458 A. I find that it is a novelty to construct a shirt with a bosom bound, the binding bearing such a relation to the shirt and bosom as to include all the raw and ragged edges of the bosom and shirt body or of the bosom, the binding, and the shirt body.

X Q. 62. After the bosom is completed, as shown in the Complainants' Exhibit Cluett Bound Bosom, what would be the next step under the complainants' patent to attach the bosom to the body of the shirt?

A. Stitch it fast to the shirt body.

X Q. 63. With a row of stitching?

A. Necessarily.

X Q. 64. In 1874 was it a novelty to attach a bosom to the body of a shirt by a row of stitching?

A. Not at all; it was a common practice.

X Q. 65. Was it a common practice so to do prior to 1874?

A. I suppose it was.

X Q. 66. Do you mean to be understood as saying that a binding attached to a bosom and the bosom attached to the shirt prevents the bosom from rumpling or wrinkling when in use by the wearer?

A. The tendency of the binding is to stiffen the bosom; the absorption of starch makes it rigid at the edges.

X Q. 67. Question repeated.

A. I can only repeat my last answer, with the addition that the binding serves in a great measure to prevent the rumpling.

X Q. 68. But is it not a fact that such a bosom would rumple or wrinkle when actually in use?

A. That depends upon so many conditions that it is impossible for me to answer. It might be starched so stiff that nobody could rumple it or have so little starch that it would, of course, rumple. Considered as having the same degree of starching as the old

459 form of turned-in-bosom shirt, it would undoubtedly be the less liable of the two to rumple or break.

X Q. 69. Looking at the Marr patent, you are not prepared to state whether the bosom there displayed is bound or unbound?

A. The patent says it may be bound, and from the drawings I should say it was bound in the manner as is usual with such shirts—with a braid.

X Q. 70. So far as the object of the binding is concerned, do you

undertake to draw a distinction between flexible or flannel and other material?

A. Undoubtedly; there is no question about that. There is a very wide difference.

X Q. 71. Would not a binding on a flexible or flannel material perform the same functions as upon any other material?

A. No.

X Q. 72. Why not?

A. As a general thing, flannel is not adapted to be starched, and where the binding isn't starched it would lose its stiffening function among a good many others.

X Q. 73. Is that the only distinction you draw?

A. I answered your question.

X Q. 74. Will you please take a piece of paper and cut for me therefrom what you understand to be covered by the Nicoll patent in folios 25 and 30 and the first part of folio 35?

Question objected to as indefinite and incongruous.

A. I am not prepared to say what is covered by the folios in question of the patent referred to, and without the drawing to guide me I am not certain that I could produce the article. I have tried, and I offer the model marked "Benjamin Nicoll Drawing."

Defendants offer this exhibit or drawing in evidence, and the same is marked Defendants' Exhibit Benjamin Nicoll Drawing, E. S. B., Sp. Ex., November 22, 1886.

460 X Q. 75. Would not the binding, as shown in your drawing of the Nicoll patent, perform the same functions as the binding in the complainants' patent in suit here?

A. It would not, in that it does not include all the raw edges.

X Q. 76. Show where it does not include the raw edges.

A. Reversing the model at the points marked X and Y, it will be seen that the edge of the strip O, which is turned under, is not caught by the line of stitching No. 2, nor do I find any evidence in the specification that such edge is intended to be included; in fact, the specification says, "taking care that these stitches be as close as possible to the upper edge of the binding without catching it;" and the upper edge I conceive to be the free edge.

X Q. 77. From your examination of Defendants' Exhibit A, do you find the bosom there to be so enclosed or bound as to prevent the raveling of the edges of the bosom?

A. The edges are included within a strip, which is turned over them, and so will not unravel when stitched down.

X Q. 78. Would that bosom, as exhibited, prevent the wrinkling or rumpling thereof when in actual use?

A. In a measure, yes; but not to the extent that a fully bound bosom would.

Cross-examination closed.

GEO. H. BENJAMIN.

Sworn to before me this 27th day of November, 1886.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

461 United States Circuit Court, Southern District of New York.

CLUETT *et al.*
vs.
CLAFLIN *et al.* } In Equity.

Testimony on behalf of complainants in rebuttal, in Troy, New York, before J. M. Landon, U. S. commissioner, on Wednesday, November 24, 1886, at 11.20 a. m., pursuant to notice.

Present: James A. Skilton, Esq., solicitor for complainants; Louis C. Raegener, Esq., counsel for defendants.

MYRON E. CLARK, a witness produced on behalf of the complainants, being duly sworn, deposes and says:

Q. 1. Are you the party of the same name who testified on behalf of defendants in the suit of George B. Cluett and others against H. B. Claflin and others in February last?

A. I am.

Q. 2. Were you served with a subpœna to appear here to testify and to produce certain books containing the business records of H. M. Ford, of Chatham village?

A. The subpœna called for the business records of H. M. Ford of business done prior to November 17, 1874.

Q. 3. Will you produce those books?

A. I cannot.

Q. 4. Have you made search for them?

A. I have.

Q. 5. Where have you searched for them?

462 A. I have searched in my own store.

Q. 6. Why did you search in your own store for them?

A. To see if they were there.

Q. 7. When did you last see Mr. Ford's account books, order books, and so forth in your Chatham store?

A. I don't know as I have ever seen them in the store I now occupy. I can't swear positively that — have seen them since 1878.

Q. 8. Where did you last see them?

A. In what was known as the old store, occupied by Ford.

Q. 9. Can you swear that you have seen any of Mr. Ford's books containing any records of his business—that is, of any business done prior to the spring of 1880; since the spring of 1880?

A. I can't swear that I have.

Q. 10. Have you made any search for books of Mr. Ford covering any period between November 17, 1874, and the spring of 1880?

A. I have.

Q. 11. With what result?
A. I have been unable to find any.

MYRON E. CLARK.

Sworn to before me this 24th day of November, 1886.
J. M. LANDON,
U. S. Commissioner, Troy, N. Y.

J. W. ALFRED CLUETT, a witness recalled on behalf of complainants, being duly sworn, deposes and says:

Q. 1. Are you one of the parties complainants in this suit?
A. I am.

463 Q. 2. I call your attention to questions 5 and 6 and the answers thereto in the testimony of Edward Wallerstein, a witness produced on behalf of the defendants herein on April 9, 1886, which I now read as follows:

"Q. 5. Did you then and there have a conversation with him (meaning Hiram M. Ford) relative to the Cluett bound-bosom shirt upon which this suit has been instituted?

"A. I have.

"Q. 6. Please give the conversation as fully as you can now remember the same.

"A. He asked me whether we were sued by Cluetts. I said, Yes. He says, Why don't you combine with Mack in Albany and others that will be sued or have been sued already? I told him I did not know anything about that. He said that he had made a shirt long before Cluetts and that Cluetts had sent for him and offered him $800 to sell his prior right of having made this shirt, but he would not sell his right. If the patent was good he intended to have the full benefit out of it. I knew then of the letter he had written to Mack, and he stated that Mack could not get his testimony unless he would pay him, as he considered it his right to use the patent, which he considered his own, and, as he used the word, stolen by Cluetts. He said that he could break up the patent at once right in Troy, and I told him he couldn't expect Mr. Mack or any one else to lay down $1,000 without knowing he was really entitled to it as an inventor, and he said he would not testify unless he got the money."

I also call your attention to cross-questions 20, 21, and 22 and the answers thereto, found in the testimony given by Ed. Elisha Mack, a witness produced on behalf of the defendants herein, on or about April 9th, 1886, which I now read to you as follows:

464 "X Q. 20. How many conversations did you have with Mr. Ford on this subject and where?

"A. I think three different times, in Albany, and within three days.

"X Q. 21. Was there any conversation on the subject of the payment of money by you at either of these interviews for testimony to break the Cluett patent or in relation thereto?

"A. No; but there was a conversation in relation to giving money for an affidavit and for transfer of priority of invention which he claimed.

"X Q. 22. State what was said.

"A. Mr. Ford said that he was the original inventor of the bound-bosom shirt; that he had made the bound-bosom shirt continuously for five years and upwards prior to the date of the Cluett letters patent; that the patent was good for nothing and he could break the patent; that he didn't propose to give any affidavit unless he was paid for it, and he wouldn't give an affidavit as was wanted unless he was paid $1,000. He stated that the Cluetts had offered him $800 to not testify in any case to what he knew regarding the manufacture of bound-bosom shirts and his assignment to them of priority of invention."

I further call your attention to the following language found in a letter dated September 3d, 1885, addressed to Messrs. Mack & Co., signed F., and put in evidence on behalf of defendants herein, purporting to be a letter written by Hiram M. Ford:

"I inclose you article of agreement which I am willing to sign upon the stipulations therein contained being complied with. I find that I am able to obtain from other parties the sum specified in article and without any further trouble to me; but, as I agreed to take the sum from you, I am ready to fulfill."

What have you to say as to the statements made in these
465 three several pieces of evidence, in so far as they relate to yourself, to the firm of George B. Cluett, Bro. & Co., and to the other members of that firm and in reference to the negotiations with the Hiram M. Ford referred to, to the payment of moneys to him as stated by you or by them or to other dealings with the said Ford in connection with the bound-bosom patent here in suit and the matter here in controversy?

A. I have no recollection of ever meeting Mr. Ford. I am not aware that I have ever heard of Mr. Ford before the appearance of his name as a witness in this case. I have had no relations with him by either interview or correspondence. The statements he makes in reference to us, so far as I am individually aware, are in part and in whole false.

Q. 3. Since your examination in the city of New York in this case have you discovered any further traces in the books of the firm of the articles mentioned in that testimony given in the city of New York? And, if yea, please produce it and point out its character.

A. I produce an old cutting book of the firm in which I recognize two memorandums in the handwriting of George B. Cluett, one under date February 9, 1872, the other dated June 22, 1872, both relating to one-ply bound bosoms. The first entry is on page marked "page 61" in pencil on second line from bottom of page. The second entry is on page marked "page 121" in pencil on eighth line of writing from top of page. These two entries refer to the style as to which I have previously testified under the number 418. In these two entries they are described as being of one ply, and if anything in my previous testimony appears to describe this style No. 418 as being made in any other manner—that is, with more than one ply—I desire to correct the same and to state that the bound bosoms made under the style No. 418 had but one ply.

466 Solicitor for complainants here offers in evidence on behalf of complainants the cutting book referred to, and the same is marked Complainants' Exhibit Cluett Cutting Book, J. M. L., U. S. Com'r, November 24, 1886.

J. W. ALFRED CLUETT.

Sworn to before me this 24th day of November, 1886.

J. M. LANDON,
U. S. Commissioner, Northern District of N. Y., Troy. N. Y.

GEORGE B. CLUETT, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. Are you one of the parties complainant in this suit, and what is your age, residence, and occupation?

A. Yes; age, 48; Troy, N. Y.; shirt and color manufacturer.

Q. 2. I call your attention to questions 5 and 6 and the answers thereto in the testimony of Edward Wallerstein, a witness produced on behalf of the defendants herein on April 9, 1886, which I now read as follows:

"Q. 5. Did you then and there have a conversation with him (meaning Hiram M. Ford) relative to the Cluett bound-bosom shirt, upon which this suit has been instituted?

"A. I have.

"Q. 6. Please give the conversation as fully as you can now remember the same.

"A. He asked me whether we were sued by Cluetts. I said yes. He says, Why don't you combine with Mack, in Albany, and
467 others that will be sued or have been sued already? I told him that I did not know anything about that. He said that he had made a shirt long before Cluetts, and that Cluetts had sent for him and offered him $800 to sell his prior right of having made this shirt, but he would not sell his right. If the patent was good he intended to have the full benefit of it. I knew then of the letter he had written to Mack, and he stated that Mack could not get his testimony unless he would pay him, as he considered it his right to use the patent, which he considered his own, and, as he used the word, stolen by Cluetts. He said that he could break up the patent at once, right in Troy, and I told him he couldn't expect Mr. Mack or any one else to lay down $1,000 without knowing he was really entitled to it as an inventor, and he said he would not testify unless he got the money."

I also call your attention to cross-questions 20, 21, and 22 and the answers thereto found in the testimony given by Ed. Elisha Mack, a witness produced on behalf of the defendants herein on or about April 9, 1886, which I now read to you as follows:

"X Q. 20. How many conversations did you have with Mr. Ford on this subject, and where?

"A. I think three different times, in Albany, and within three days.

"X Q. 21. Was there any conversation on the subject of the pay-

ment of money by you at either of these interviews for testimony to break the Cluett patent or in relation thereto?

"A. No; but there was a conversation in relation to giving money for an affidavit and for transfer of priority of invention which he claimed.

"X Q. 22. State what was said.

"A. Mr. Ford said that he was the original inventor of the bound-bosom shirt; that he had made the bound-bosom shirt continuously for five years and upwards prior to the date of the
468 Cluett letters patent; that the patent was good for nothing and he could break the patent; that he didn't propose to give any affidavit unless he was paid for it, and he wouldn't give an affidavit as was wanted unless he was paid $1,000. He stated that the Cluetts had offered him $800 not to testify in any case to what he knew regarding the manufacture of bound-bosom shirts and his assignment to them of priority of invention."

I further call your attention to the following language, found in a letter dated September 3d, 1885, addressed to Messrs. Mack & Co., signed F., and put in evidence on behalf of the defendants herein, purporting to be a letter written by Hiram M. Ford:

"I enclose you article of agreement which I am willing to sign upon the stipulations therein contained being complied with. I find that I am able to obtain from other parties the sum specified in article and without any further trouble to me; but as I agreed to take the sum from you I am ready to fulfill."

What have you to say as to the statements made in these three several pieces of evidence, in so far as they relate to yourself, to the firm of Geo. B. Cluett, Bro. & Co., and to the other members of that firm, and in reference to negotiations with the Hiram M. Ford referred to, to the payment of moneys to him as stated by you or by them, or to other dealings with the said Ford in connection with the bound-bosom patent here in suit and the matter here in controversy?

A. In reference to statements made in answer to question I can say that I am not aware of ever having seen Mr. Ford and never heard of him until he appeared as a witness in this case. I can therefore say that the statements made are most unqualifiedly false,
and I do say that they are absolutely untrue, so far as they
469 state any action on the part of our firm or any member of it, as I verily believe. Certainly I never had any hand in any such arrangements or proposition.

Q. 3. If you have a book of the firm of Geo. B. Cluett, Bro. & Co. called a "cutting book," please produce the book, state in whose handwriting the book is, and point out anything contained therein relating to bound bosom.

A. I find on page 61 of said cutting book the following: "418, 24 dozens one-ply bosoms, bind Forest;" also on page 121 I find "418, 25 dozens one-ply bosoms, bind Forest," both entries referring to bound bosoms. This book was kept by me, and the entries named are in my handwriting. The first entry mentioned was made on

the 9th of February, 1872. The second entry was made on the 22d of June of the same year.

GEO. B. CLUETT.

Sworn to before me this 24th day of November, 1886.

J. M. LANDON,
U. S. Com'r, Northern Dist. of N. Y., Troy, N. Y.

J. H. MAMBERT, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. John H. Mambert; aged 29; residence Coxsackie, New York; occupation, farmer.

Q. 2. Do you know Hiram M. Ford, of Chatham, sometimes called Milton Ford?

A. Yes, sir.

Q. 3. Did you ever live in the town of Ghent, Columbia Co., New York?

470 A. Yes, sir.

Q. 4. When did you first live in the town of Ghent; what year?

A. 1877.

Q. 5. How long did you live there after the year 1877?

A. About five years.

Q. 6. Did you ever live in Ghent before 1877?

A. No, sir.

Q. 7. Who did you live with in 1877 in Ghent?

A. Alfred Curtis.

Q. 8. How long did you live with Alfred Curtis after you went there in 1877?

A. I lived with him one year after that.

Q. 9. With what other persons did you live in Ghent?

A. Wesley B. Wager.

Q. 10. Did you know Myron E. Clark, of Chatham, while you lived in Ghent?

A. Yes, sir.

Q. 11. Where did you know or meet him in Chatham?

A. I first saw him at Ford's store.

Q. 12. Did you ever buy any goods at Ford's store while you lived in Ghent; and, if you say you did, what goods did you buy of him?

A. I bought a couple of shirts, a hat, and a pair of gloves and a few other notions.

Q. 13. What became of the two shirts you bought at Ford's?

A. I wore them out.

Q. 14. What kind of shirts were they?

A. They were fine white shirts.

Q. 15. When did you buy these two shirts; what year?

A. I think it was in 1877.

Q. 16. Are you sure it was not in 1878 or 1879?

A. I would not be positive about that.

Q. 17. It might have been in 1878 or 1879?

A. It might have been.

471 Q. 18. Were these two shirts made to order or were they ready-made shirts?

A. I suppose they were made to order; that is what I paid for.

Q. 19. Describe these two shirts; state how they were made.

A. They were a good shirt; they were well made; they came to a round point at the bottom.

Q. 20. Can you give any description of them?

A. No, sir.

Q. 21. Did either of these two shirts have your name on the tab, on the body, on the bosom, or on any other part of the shirt?

A. No, sir.

Q. 22. Did you ever have a shirt with your name on any part of the shirt, bosom, body, tab, or other part?

A. No, sir.

Q. 23. How many orders did you ever give Mr. Ford for shirts to be made to order?

A. Only one.

Q. 24. Did you ever have more than one conversation with Mr. Ford about ordering shirts or with Myron E. Clark about having shirts made? And, if yes, state what the conversation was and what occurred and when it occurred.

A. I think it was in the fall of 1879 I came to the store to buy a hat and some other notions, and I says to Mr. Clark that I didn't know but what I should have some more shirts made. He says, All right; you come in some other time and I'll take your measure and make you a couple more shirts; and I told him that I couldn't pay for them right away. He said he guessed that would be all right, and he said he would go and talk with Mr. Ford in regard to it. So he stepped across the store and talked with Mr. Ford about it, and Mr. Ford said it was all right. He said when he took my measure he would make them up and send them to me, which he never did.

472 Q. 25. Your measure had been taken before, had it not, at the time of the previous order?

A. Yes, sir.

Q. 26. Please state whether you ever purchased any ready-made shirts of Mr. Ford, of Chatham village.

A. I don't think I did.

Q. 27. Please examine the shirt I now place in your hands, marked Defendants' Exhibit A, and on the tab of which I find the following: "J. H. Mambert." Please examine this shirt. State whether you ever saw it before; whether it is one of the two shirts you say you ordered of Mr. Ford or not.

A. I never saw that shirt before. The shirts I had made were a little different from this. The cuffs were different. The stamp, H. M. Ford, on Exhibit A, on the bottom of the back placket of the shirt, showing the outline of a shirt, was not on my shirts.

Q. 28. Please point out any other differences or similarities between the Defendants' Exhibit A and the two shirts Mr. Ford made for you that you may discover on examination of this exhibit.

A. I think the bosoms of those shirts I had made were a little larger than this and had no tab on. I didn't want it on. It looks a little like my shirts at the top of the bosom (pointing around the neck band). They did not have this piece on the back. (The witness points to the reinforce piece on the back of this shirt.) The shirts they made for me was square across at the bottom of the placket below where Mr. Ford's name is stamped. The cuffs on my shirt were about two inches wide straight across—that is, they were as wide at the button-hole as they were in the centre. I think they had the large box pleat, but I don't think it had the small centre box pleat on the front of the larger one. On each side of the
473 box pleat it was plain and without pleats, as in this sample. That is all I can say about it.

Q. 29. Please state whether your two shirts had the narrow piece which appears on the side of the bosom of Defendants' Exhibit A.

A. I don't think they had that on.

Q. 30. How were they made on the edge of the bosom—how were they formed there?

A. They were simply stitched. I think there were three rows of stitches instead of two.

Q. 31. I notice that this Exhibit A has two button-holes in the neck band at the back. Please state how your two shirts were made in that regard.

A. My shirts had only one button-hole.

Q. 32. What did you pay Mr. Ford for those two shirts—what was the price of them?

A. Dollar and a half apiece.

Q. 33. When did you pay for them?

A. I got them about two weeks after they were ordered and paid for them.

Q. 34. Who took your measure for the two shirts made for you by Mr. Ford to order?

A. I think Mr. Clark.

Q. 35. Who did your washing for you at the time when you were wearing these two shirts?

A. Mrs. Alfred Curtis.

Q. 36. Where does Mrs. Alfred Curtis now live?

A. Ghent, Columbia county.

Q. 37. Is Mr. Alfred Curtis living?

A. No, sir.

Q. 38. Did you ever buy any shirts or order any shirts from Mr. H. M. Ford, of Chatham, Columbia county, before you went to live with Mr. Alfred Curtis in Ghent in 1877?

A. No, sir.

Q. 39. Are you confident of that?

A. Yes, sir.

Q. 40. Where did you buy your shirts before that time—of whom?

474 A. Mr. Curtis bought my clothes before I went to Ghent.

Q. 41. How old were you when you went to Ghent?

A. About twenty-one.

Q. 42. How long had you lived with Mr. Curtis or when did you first go to Mr. Curtis' to live?

A. In the fall of 1868.

Q. 43. Was it a part of Mr. Curtis' bargain with you prior to 1877 that Mr. Curtis should furnish you with clothing?

A. Yes, sir.

Q. 44. And did he furnish you with your clothing prior to 1877?

A. Yes, sir; he was to buy my clothes until I was twenty-one.

Q. 45. Did you make that bargain with him—that he should buy your clothes until you were twenty-one?

A. He brought me up. I went to live with him until I was twenty-one.

Q. 46. With whom did you live in Ghent after living with Alfred Curtis and Wesley B. Wager?

A. John H. Coburn.

Q. 47. How long did you live with John H. Coburn?

A. I was there eight months.

Q. 48. With what other person did you live in Ghent during your five years residence there?

A. I was at Mr. Curtis' off and on there more or less.

Q. 49. What was your business—how were you employed—during your five years residence in Ghent?

A. Mr. Curtis gave me $250 a year. I was in the freighting business.

Q. 50. What was Mr. Curtis' business?

A. He carried on the freighting business and hired me to help him.

475 Q. 51. By freighting business I understand you mean that he bought and handled straw, hay, and grain and shipped it to market, and you assisted in that business. Is that true?

A. Yes, sir.

Direct examination closed.

Cross-examination by LOUIS C. RAEGENER, Esq.:

X Q. 52. You have testified that the two shirts you bought from Ford had, in your opinion, three lines of stitching around the edge of the bosom. Did you ever detach the bosom from the shirt body to see how the bosom and body were united?

A. I noticed particularly that there was three lines of stitching there. No, I never took it apart.

X Q. 53. You will notice that in Exhibit A one side of the bosom has been detached from the body. You couldn't say, could you, that if you had detached the bosoms of the two shirts you bought from Ford that they wouldn't have looked in about the same way, always remembering that there were three lines of stitching instead of two?

A. I could tell right away by looking at the shirt that there is an extra pleat put across there.

(The witness points to the edge of the bosom.)

X Q. 54. You are not prepared to say, are you, that in your shirts there wasn't a strip of material something like this under the bosom, are you?

A. I don't think there was.

X Q. 55. How do you know there wasn't?

A. Because I can tell after the shirt was nearly worn out that there wasn't any pleat there.

X Q. 56. Haven't you just told me that you never took the bosom apart from the shirt body?

A. Certainly I never took it apart. The shirt came apart itself when it was nearly worn out.

X Q. 57. When did you see these shirts last?

476 A. It was quite a while ago.

X Q. 58. How long?

A. Oh, about three or four years ago, I guess, since I saw the last of them.

X Q. 59. What became of them?

A. They wore out; became paper rags.

X Q. 60. I presume your knowledge as to what became of them is about as positive and certain as to how they were constructed, or have you any better knowledge than this statement that they became paper rags?

A. Well, they was worn out.

X Q. 61. Did you mean to be facetious when you said they became paper rags?

A. Why, I meant that of course they were put in the rag bag after they became useless and worn out.

X Q. 62. Did they both wear out at the same time?

A. Yes, sir.

X Q. 63. When did you discard them or give up using them?

A. I wore them about a year and a half.

X Q. 64. When did you say you got them?

A. I think it was 1877; some time the year 1877.

X Q. 65. And how long did you wear them?

A. About a year and a half; I did not wear them every day, I only wore them for nice.

X Q. 66. And when did you see them last?

A. Three or four years ago, I think.

X Q. 67. And where were they then?

A. They were in paper rags when I saw them last.

X Q. 68. How long had you kept them there?

A. That I couldn't say positively.

X Q. 69. How long do you think?

A. Oh, they might have been around the house six months or a year; somewhere around that, I think.

477 X Q. 70. Then, if I understand you, these shirts might have been around the house for six months or a year and were then put in the paper-rag bag?

A. I wore these shirts a year and a half; they lasted about a year and a half, then they became worn out, and then I put them in the

paper-rag bag; they might have been in the rag bag six months or a year, something like that.

X Q. 71. I understand that you wore these shirts about a year and a half; that you then put them in the rag bag when they were worn out, and that they remained in the rag bag about six months or a year. Do you wish to change this in any way?

A. I won't swear positively they were put in the rag bag—whether they were put in the rag bag or not, come to think about it. I was there to Mr. Curtis' and wore the shirts out there and they washed the shirts; when I left I left them there. I suppose they put them in the paper rags.

X Q. 72. Wasn't your statement somewhat reckless then when you stated that you saw them last some three or four years ago?

A. I got a little bewildered there and I wish to change that some. I simply wish to state that the last I saw of the shirts was when I left Mr. Curtis'; that was in the spring of 1879, I think.

X Q. 73. What was it that bewildered you and caused you recklessly to state, first, that you saw these shirts three or four years ago; second, that they were put in the rag bag at Curtis', when as a matter of fact after you left Curtis' you left the shirts there, as you have now stated, and really didn't bother yourself with what become of them? Was there any excitement in the room or have you by your answers shown any excitement in any way?

A. Why, I was simply trying to refresh my memory in regard to the shirts; then it came to my mind all of a sudden that I had them there with Mr. Curtis.

Recess at 2.55 until 3.30.

478 After recess, resumed.

X Q. 74. When did you first learn of the controversy between Cluett *et al.* and Claflin *et al.?*

A. Yesterday.

X Q. 75. How did you learn it?

A. Because I was subpœnaed on the case.

X Q. 76. Who subpœnaed you?

A. Cornelius Markham, here present.

X Q 77. What is Mr. Markham's business; do you know?

A. No, sir; I don't know as I can tell.

X Q. 78. Is he an official of some kind—a marshal, a detective?

A. He is an officer, I should think.

X Q. 79. When and where did he subpœna you?

A. He subpœnaed me at home, at Coxsackie, between one and two o'clock in the afternoon yesterday.

X Q. 80. How does it happen that he came here with you to-day?

A. Well, I don't know as regards to that. He was at the depot when I got off the train to-day.

X Q. 81. How long did he stay with you yesterday?

A. I should think he was there between ten and fifteen minutes.

X Q. 82. Who did you talk with about this case?

A. I didn't talk with anybody about it.

X Q. 83. When did you first learn the object of this suit?
A. Yesterday.
X Q. 84. From whom?
A. I found it out when this gentleman served the subpœna on me and by reading the subpœna.
X Q. 85. Have you got that subpœna?
A. Yes, sir.
X Q. 86. Let me look at it.

Witness hands counsel the subpœna.

479 X Q. 87. What did you learn from the subpœna?
A. I learnt by reading it that I had to go to Troy as a witness on the case.
X Q. 88. Did you know for what purpose?
A. No, sir.
X Q. 89. Do you know now?
A. No, sir; I don't know as I can tell exactly.
X Q. 90. Have you spoken to anybody during recess concerning this case?
A. No, sir.
X Q. 91. Has anybody spoken to you?
A. No, sir.
X Q. 92. How many shirts have you bought since you bought those two shirts from Mr. Ford?
A. I don't know as I could tell exactly.
X Q. 93. About how many?
A. Oh, I should think ten or twelve white shirts.
X Q. 94. When the two Ford shirts wore out where did you get your next white shirt?
A. I think I bought the next shirts at Hudson already made.
X Q. 95. Do you mean that when the Ford shirts wore out the next shirts you put upon your person you got at Hudson?
A. Yes, sir; I think I did.
X Q. 96. When was that?
A. I don't recollect just when it was.
X Q. 97. What year?
A. I can't say what year.
X Q. 98. About what year?
A. I can't recollect what year.
X Q. 99. What was the name of the party from whom you bought it?
A. That I couldn't say.
X Q. 100. How many shirts did you buy at Hudson?
A. I think I bought two at that time; white shirts.
480 X Q. 101. After you bought these two shirts at Hudson where did you buy the next shirts?
A. I think I bought the next shirts at Chatham.
X Q. 102. When was that?
A. I think it was a year or two after I got those shirts at Hudson.

X Q. 103. What became of those shirts you bought at Hudson?

A. That I couldn't say.

X Q. 104. Describe those shirts you bought at Hudson.

A. They were common made shirts. That is all I can tell about them.

X Q. 105. Can you tell as to their shape?

A. No, sir; I don't recollect.

X Q. 106. Can you tell how the bosoms were attached to the body of the shirts?

A. No, sir; I couldn't tell exactly how they were made.

X Q. 107. Can you tell how the shirts you bought at Chatham were made subsequent to the Hudson shirts?

A. Yes, sir.

X Q. 108. How were they made?

A. They were a good shirt, better shirt than I got at Hudson, better material, they was made better.

X Q. 109. What was the shape of the bosom?

A. It was quite a wide bosom and a long pleat in the centre, and then it ran down to a rounding point.

X Q. 110. From whom did you buy them?

A. I think I bought them of Seymour. I think it was; I don't know his first name.

X Q. 111. Of how many plies or layers of material did the bosoms consist that — bought from Ford?

A. Two or three, I think.

481 X Q. 112. Was it a set-in or a set-on bosom? By that I mean was the bosom set into a hole in the shirt body or was the shirt body made of one piece and was the shirt front sewed onto that?

A. I think these shirts was. I think there was a hole in the shirt and the bosom set over.

X Q. 113. What was the object of the three lines of stitching around the edge of the bosom in the Ford shirt?

A. I suppose to make it stronger.

X Q. 114. Did you ever take the bosoms apart from the body and examine the same with a view to understanding the construction?

A. No, sir; it came apart itself.

X Q. 115. Did you then examine it with a view to understanding its construction?

A. No, sir; I didn't exactly examine it, but I could see the way it was put together by looking at it.

X Q. 116. How was it put together?

A. Why, it was put together just as I told you before.

X Q. 117. Tell us again in detail.

A. Why, there was simply a hole cut in the shirt and the bosom sot in and sewed fast.

X Q. 118. Please tell us, if you can, how the shirt bosom is attached to the shirt body in Exhibit A, heretofore examined by you.

A. I think that bosom was sewed on the outside of the shirt instead of sot in.

X Q. 119. Can you give any further description of it?

A. No, sir.

X Q. 120. Do you know how the edges of the bosom are attached to the body of the shirt?

A. No, sir.

X Q. 121. Then what do you mean by saying that the Ford shirts bought by you were not constructed substantially in the same way?

Question is objected to on the ground that it puts words in
482 the mouth of the witness having a certain technical meaning, and words which the witness has not used.

A. I mean that those Ford shirts that I had made was made different from that shirt shown me.

X Q. 122. Specify in detail in what the difference consisted, having particular reference to the edge of the bosom.

A. I told you there was no edging on those shirts I bought.

X Q. 123. What do you mean by "edging"?

A. I mean that there sewed on along the edge of the bosom—that pleat.

At this stage Mr. Skilton brings in Exhibit A, and in answer to defendants' counsel's protest said, "He is entitled to have it," or words to that effect. Defendants' counsel now asks that Defendants' Exhibit A be removed from the room, as he is examining the witness with reference to his recollection and in no sense as an expert.

With that understanding the shirt is removed from the room.

X Q. 124. What reason had you for ever examining the Ford shirts while you wore them with a view to ascertaining their construction?

A. Because I thought it was a big price to pay for a shirt; so when I got them I examined them to see how they were made; so I found out they were a well-made shirt and well worth what I paid for them.

X Q. 125. When did you ascertain the construction of these shirts?

A. Shortly after I got them home.

X Q. 126. How soon after was that?

483 A. I looked them over the next day after I got them.

X Q. 127. And does your recollection as to their construction date back to that period?

A. I think it does.

X Q. 128. Did your examination of the shirts at that period disclose to you that these shirts did not have what you call the "edging"?

A. Yes, sir.

X Q. 129. And you are as positive as to that as with reference to any other portion of your testimony, are you not?

A. Yes, sir.

X Q. 130. Will you believe me when I tell you that it took me

a very considerable time to understand the construction of Exhibit A before it was mutilated?

A. I think anybody ought to understand the construction of that Exhibit A in a little while.

X Q 131. And you mean to say that when Exhibit A or shirts like that were brand-new and laundered that it would have been possible for you or any person not a shirt-maker to discover, upon a careful and superficial examination of such shirts without taking the bosom and body apart, that there was or was not a binding strip upon the edge of the bosom?

A. Those Ford shirts were not laundered.

X Q. 132. I repeat the question and except therefrom the word "laundered."

A. Those Ford shirts were not done up. I examined them and found out it was a very easy matter to tell there was no edging on the bosom.

Cross-examination closed.

Redirect examination by JAMES A. SKILTON, Esq.:

R. D. Q. 133. On whose behalf has your testimony here been given, if you know?

A. I couldn't tell positively.

484 R. D. Q. 134. Have you never been told on whose behalf you were testifying?

A. No, sir.

R. D. Q. 135. When did you first see the shirt, Defendants' Exhibit A, and where?

A. I first saw it to-day, here in court.

R. D. Q. 136. When was that, when the shirt was first placed in your hands for examination?

A. Yes, sir.

R. D. Q. 137. Had or had not Mr. Skilton or any other gentleman shown you that shirt before you were sworn and began to testify here?

A. No, sir.

R. D. Q. 138. Please state whether or not any person had said anything to you about what you called the "edging" or the "pleat" on the edge of the bosom of Defendants' Exhibit A before you appeared here, were sworn, and began to give your testimony in this case to-day?

A. There hadn't nobody said anything.

R. D. Q. 139. About what?

A. In regard to the edging.

R. D. Q. 140. I now place Defendants' Exhibit A in your hands and ask you to point out what you have called an "edging" or a "pleat."

A. This here.

The witness lifts up the detached strip on the edge of the bosom of Defendants' Exhibit A where the seams are cut in such a manner as to separate it from the bosom and the shirt body.

R. D. Q. 141. Do you know what the object of this suit is now?
A. No, sir.

Redirect examination closed.

Recross-examination by Mr. RAEGENER:

R. X Q. 142. Look at the upper left-hand corner of the
485 bosom on Exhibit A, assuming that the bosom was worn by you, and state whether you still mean to adhere to your answer that you or any person could readily discover that Exhibit A had a binding strip attached to the edge of the bosom. I have now soaked in water the corner of the bosom referred to and have tried to remove the starch.
A. No; I can't tell for sure.

JOHN H. MAMBERT.

Sworn to before me this 24th day of November, 1886.
J. M. LANDON,
U. S. Commissioner, Northern Dist. of N. Y., Troy, N. Y.

ELSIE WILLIAMS, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
A. Elsie Williams; aged 71; Oakwood avenue, Troy, New York; stitching.
Q. 2. If you have a sample of Roman cord in your possession please produce it and state how long you have had it in your possession; or, in other words, when it came into your possession.
A. I produce it. It came into my possession some time in 1866; just when I can't say.
Q. 3. Where has it been since that time?
A. It has been in my possession.

The Roman cord referred to by the witness is offered in
486 evidence on behalf of complainants and is marked Complainants' Exhibit Williams' Roman Cord, J. M. L., U. S. Com'r, November 24, 1886.

No cross-examination.

ELSIE WILLIAMS.

Sworn to before me this 24th day of November, 1886.
J. M. LANDON,
U. S. Commissioner, North'n Dist. of N. Y., Troy, N. Y.

MARGARET D. WARWICK, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
A. Margaret D. Warwick; my occupation was stitching collars and making this cord for Geo. B. Cluett, Bro. & Co.; residence, 80 North Fourth street, Troy, New York.

Q. 2. What cord do you mean?
A. Roman cord.
Q. 3. When did you first make the Roman cord?
A. I think we first commenced to make it in 1866.
Q. 4. How long did you continue to make the Roman cord for Geo. B. Cluett, Bro. & Co.?
A. We made it until 1869.
Q. 5. In what quantities did you make it?
A. I think I made it up in thousands of yards.
Q. 6. I now place a sample in your hands marked Complainants' Exhibit Williams' Roman Cord, and ask you if the Roman
487 cord which you made up in thousands of yards was like this exhibit.
A. This is just like the cord I made; but I sometimes make it black where this is buff, and black and white where this is white; then I made the whole of it black and white. There was a number of styles in which I made the Roman cord for Geo. B. Cluett, Bro. & Co.

No cross-examination.

M. D. WARWICK.

Sworn to before me this 24th day of November, 1886.
J. M. LANDON,
U. S. Commissioner, North'n Dist. of N. Y., Troy, N. Y.

SARAH L. BONESTEEL, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
A. Sarah Bonesteel; age, 48; residence, 55 13th St., Troy, New York; occupation, turning collars.
Q. 2. Did you ever work for Geo. B. Cluett, Bro. & Co.; and, if you did, when did you enter their employ?
A. 7th of July, 1868.
Q. 3. Please examine the exhibit I now place in your hands, Williams' Roman Cord, and state whether a cord of that kind was manufactured by Geo. B. Cluett, Bro. & Co. while you were in their employ, and when.
A. I couldn't swear exactly as to the date, but it was made when I first went there.
488 Q. 4. In what quantities was it so made?
A. In large quantities.
Q. 5. For what purpose was it used?
A. To put on collars and to run on the centres of false bosoms.

No cross-examination.

SARAH L. BONESTEEL.

Sworn to before me this 24th day of November, 1886.
J. M. LANDON,
U. S. Commissioner, Northern Dist. of N. Y., Troy, N. Y.

JAMES A. SKILTON, recalled on behalf of complainants, being duly sworn, deposes and says as follows:

I was the attorney of Robert Cluett in the application for the letters patent here in suit. I hold in my hand my original office file in that application, which is endorsed in the handwriting of Mr. Thomas Houghton, who was then in charge of my Washington office. The endorsement is as follows: "Robert Cluett. Shirt bosom. (Bound.) Specification filed August 10, 1874. D'r'g filed August 10, 1874. Model filed August 10, 1874. Fee, $15. Received cash (check) $50." I find in this file the rough draft of an amendment in the case, which is endorsed as follows: "Robert Cluett amendment before filing. Shirt bosom. Aug. 8, 1874. Filed August 10, 1874." A copy of this amendment I know was filed with the original application. In some manner, to me unknown, this amendment got out of the file, and, I believe, was not considered either in the original action of the office or in its final action
489 allowing the patent. It contains, among other things, a description of figure 15, of which portion is found in the specification of the patent as issued, and it is only within a few days past that I have learned of this omission of the office to consider this original amendment.

Solicitor for complainants here offers in evidence on behalf of complainants the amendment referred to, and the same is marked Complainants' Exhibit Robert Cluett Amendment before Filing, J. M. L., U. S. Com'r, November 24, 1886.

Defendants' counsel objects to the above testimony and exhibit on the ground that it is immaterial and incompetent, as it is impossible at this stage to inject anything into the file wrapper or the patent which the Patent Office admittedly has not passed upon. Motion at the proper time will be made to strike this from the record.

Solicitor for complainants states that he here reserves the right to put in evidence on behalf of complainants a proper certificate of the Commissioner of Patents to make clear the history and nature of the amendment referred to.

Defendants' counsel does not concede the right of the Commissioner of Patents to make such certificate, nor the right of complainants' counsel to introduce exhibits after his time to take testimony has expired.

Solicitor for complainants here offers in evidence on behalf of complainants a printed circular over the name of Tim, Wallerstein & Co., dated Troy, New York, July 21, 1885, under title "Special
490 information for the benefit of the trade against threatened suits for infringement on an alleged patent for a bound-bosom shirt," and the same is marked Complainants' Exhibit Tim, Wallerstein & Co. Circular, J. M. L., U. S. Com'r, November 24, 1886.

Witness resumes: I am informed and believe that copies of the circular shown in the last-mentioned exhibit were circulated throughout the shirt trade at or about the time of its date.

Mr. Skilton further states that he has recently examined the Patent

Office model of letters patent No. 134,909, granted to A. D. Marr, patented January 14, 1873, and the same is a woolen shirt, and has also seen the shirt manufactured and sold under this patent in the market; had a sample of the same in his possession before the application of the Cluett letters patent here in suit was allowed, and knows the article sold under the patent was a woolen shirt. He also states that for weeks—in fact, for months—he has endeavored to procure a sample of the shirt made under the Marr patent, as offered and sold in the market, and has been unable, although the attempt has been made in a large number of cities, to obtain a sample of said shirt by purchase.

Oath waived.

JAMES A. SKILTON.

Solicitor for complainants here offers in evidence on behalf of complainants the specifications and drawings of letters patent No. 135,478, granted to C. W. Jenks February 4, 1873; also letters patent No. 139,933, granted to G. C. Thomas June 17, 1873.

Solicitor for complainants also gives notice that he will refer
491 to the last two mentioned letters patent as published in the regular monthly issues of letters patent under the statute allowing the same to be read in evidence, and the two foregoing letters patent are marked, respectively, Complainants' Exhibit Jenks Patent and Complainants' Exhibit Thomas Patent, with the initials of the commissioner and this date.

Solicitor for complainants also adds letters patent 134,909, granted to A. D. Marr January 14, 1873, which will also be read from the same monthly volume, and the same is marked Complainants' Exhibit A. D. Marr Patent, No. 134,909, January 14, 1873, J. M. L., U. S. Com'r, November 24, 1886.

IRA R. TRAVELL, a witness produced on behalf of complainants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Ira R. Travell; age, 50; residence, Troy, New York; I was a shirt and collar manufacturer recently.

Q. 2. What was the name of your firm?

A. Travell & Mambert.

Q. 3. What did you manufacture and sell?

A. Shirts, collars, and cuffs.

Q. 4. When were you in business—during what years?

A. 1876 to 1879.

Q. 5. What was the name of your partner, Mambert?

A. Isaac H. Mambert.

Q. 6. Was Mr. Isaac H. Mambert straightforward in all his dealings with you as a partner?

492 Objected to, first, on the ground that Isaac H. Mambert was in no sense of the word a witness in the case of Cluett against Claflin; second, on the ground that he was merely called as an expert to testify as to the construction of the Mack shirt in the

case of Cluett against Mack; that for the purpose of the argument so far as the Mack case is concerned, and without knowing anything about Mr. Mambert's character, defendants' counsel is willing to admit that it was and is bad; third, that the question is entirely improper and incompetent; that it is impossible to attack the character and veracity of any witness by such a question, and that his answer, whatever it may be, is grossly improper and immaterial.

Solicitor for complainants states that this testimony is offered for the reason that Isaac H. Mambert appears in the record of the Claflin suit as a semi-mysterious go-between, who was employed as the agent of the defendant Mack in working up the testimony in reference to the Chatham-Ford shirt manufacture, which testimony forms a part of the record in both of the suits, to wit, the suit against Claflin *et al.* and also the suit against Mack *et al.*, and for the further reason that Isaac H. Mambert, although so active an agent in preparing the testimony, has been kept in the background, not produced as a witness, and not brought within the reach of cross-examination or within any other method or instrument or principle of the law by which his transactions and doings in this case can be tested.

493 Defendants' counsel replies that there is a material misstatement by complainants' counsel that Mr. Isaac H. Lambert was produced as a witness in the Mack case, was subjected to a lengthy cross-examination by complainants' counsel; that although it might have been objectionable at that time for complainants' counsel to go outside of the line of testimony brought out on the direct examination, yet, as complainants' counsel has frequently examined witnesses on matters not touched on in the direct, he might also have examined Mambert had he seen fit so to do on any subject whatever, even if counsel for defendants would have protested against such examination. Defendants' counsel further says that the only reason that the said Mambert was called as a witness was because he was the most available man who could be called without subjecting Mack & Company to any expense; that the reference to Mambert as the mysterious go-between is unwarranted, because the record shows that the said Mambert was for a long time the foreman of Mack & Company's factory; that all that he did was to serve subpœnas, run errands, such as getting Exhibit A from Myron E. Clark; that therefore, so far as the defendants were concerned, his testimony was utterly immaterial, having no bearing whatever on the case, and that there was no earthly reason whatever, upon the most liberal construction conceivable, for the defendants to call Isaac H. Mambert as a witness; that the said Isaac H. Mambert, as early as February of this year, was present for a long time, to the

494 knowledge of the complainants' counsel, in this room where testimony is taken to-night, and also in the ante-room; that therefore complainants' counsel might himself have called Isaac H. Mambert in the same way as he has called Hiram M. Ford, Myron E. Clark, and several others of the defendants' witnesses.

Solicitor for complainants states that he thinks solicitor for defendants is mistaken in saying that Isaac H. Mambert was present in this

room while the solicitor of complainants was present during the taking of any testimony in these cases; certainly solicitor for complainants never saw Isaac H. Mambert, as he believes or so far as he knows, prior to the time when he was produced as a witness, as stated, and which production as a witness is admitted, but at which time it would have been manifestly improper for the solicitor for the complainants to extend the cross-examination beyond the foundation laid therefor in the direct examination of the witness Mambert, and he further states that, from the information in his possession, from an early period in the history of these cases he has not had sufficient confidence in the veracity of Mr. Mambert or in his reliability in other directions to warrant his calling him on behalf of complainants.

A. He was not.

Same objection as to answer.

Q. 7. Please state in what respects.

Same objection.

495 A. He appropriated money to his own use—the firm's money.

Same objection.

Q. 8. Please state under what circumstances and to what you refer.

Same objection.

A. During the month of December, 1879, he received and used without charging to his own account until it was proved that he had received the money $112.39.

Same objection to the answer.

Q. 9. How did he appropriate this money? State the circumstances and the method of the transaction.

Same objection.

A. He took a draft from a customer's letter for that amount, endorsed it with the firm's name, and drew the money from the bank and used it himself without informing me or charging it to himself.

Same objection.

Q. 10. Please state how you made the discovery of this transaction.

A. I discovered the transaction after sending new statements to our customers and receiving a reply that this account had been paid. I then confronted Mr. Mambert, and he said he had used it.

Q. 11. Do you recall any other irregular actions on his part while he was your partner?

A. Yes; I made very many discoveries of similar sort of
496 small amounts, and it was impossible to keep a correct cash account, he having access to the cash drawer.

All the questions and answers on this line of examination objected to on the grounds already stated.

Q. 12. What were Mr. Isaac H. Mambert's duties in connection with your firm of Travell & Mambert?

Same objection.

A. To manufacture and salesman.

Q. 13. Please state whether his duties as salesman ever called him out on the road; and, if yea, in what direction?

A. All points of the compass—north, south, east, and west.

Q. 14. During all the years of your partnership did Mr. Mambert travel?

A. Yes; occasionally.

Q. 15. What was his business previous to the formation of your partnership with him, in 1876, and for how long?

A. He was one of the firm of Wight, Mambert & Seymour. I don't know the time.

Q. 16. How long had you known him before that?

A. A very short time.

Direct examination closed.

Cross-examined by Mr. RAEGENER:

X Q. 17. You have a pretty bad opinion of Mr. Mambert, haven't you?

A. I don't think I have any worse opinion than he deserves.

X Q. 18. He has expressed an opinion of you pretty freely, hasn't he?

A. I don't know that he has.

497 X Q. 19. Isn't it a fact that he has made charges against you for having treated him unfairly?

A. He may have made such charges, but without the least foundation in fact or otherwise.

X Q. 20. You and he have quarreled, haven't you, and have been and are on bad terms?

A. He and I have never quarreled, not in that acceptation of the term. I have no ill-feeling against Mr. Mambert.

X Q. 21. Would you speak to him if you met him in the street?

A. I would.

X Q. 22. Do you mean to be understood as having forgiven him for any alleged wrong that he committed?

A. Yes, sir.

IRA R. TRAVELL.

Sworn to before me this 24th day of November, 1886.

Signature of commissioner waived.

Before Timothy Griffith, Esq., standing examiner.

NOV. 17TH, 1886.

Adjourned to Nov. 22d, 1886, at 3 p. m.

NEW YORK, *Nov. 22d*, 1886—3 p. m.

Met pursuant to agreement.
Present: Counsel as before.

Examination of the witness FRANK continued:

Solicitor for complainants here submits a copy of original order on file, of the court made on the motions heretofore noticed herein, and the same is made a part of the record.

498 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

Order to Inspect Books, &c.

On motion of James A. Skilton, solicitor for complainants, and on hearing solicitors for complainants and defendants herein it is—

Ordered that the solicitor for complainants herein be permitted to inspect, in conjunction with the witness, the books heretofore produced by the witnesses Ballin and Frank under a *subpœna duces tecum* herein to ascertain therefrom the names of all the parties appearing therein to whom certain so-called "puffed-bosom shirts," "puffed-bosom fronts," and "Belknap shirts" appear upon said books to be charged therein, and also to take full memoranda of the names and accounts of said parties, as found recorded in said books, wherein such shirts and fronts appear to be charged.

Also ordered that the solicitor for complainants be permitted to fully and freely inspect, in conjunction with the witness, and examine the books so produced, wherein is recorded the names of shirt operators, work people, and other employees of the witness during the term of years when said puffed-bosom shirts were made by him, and to take full memoranda of all such operators and employees *of* the addresses of such persons.

And it is also ordered that the witness Frank answer questions 22, 24, and 25 already put to said Frank and found in the
499 record herein, and that the witness Ballin answer the questions 27, 29, and 41 already put and recorded herein.

Dated New York, November 15, 1886.

N. SHIPMAN, *Judge.*

Q. 26. Q. 25 repeated, the time to be covered by the answer being limited to the time during which the shirts testified about on behalf of defendants were being made and sold by the witness.

A. Manheimer; it was in 1872; he is dead now; Louis Levy, of 309 E. 79th St.; John Appleton, Martin Gass and his daughter. I think Slevin & Jones, of Grafton, N. Y., made some for us; Miss Taylor, 430 8th Ave.; Mrs. Wheeler, 18th St. between 7th and 8th Aves., Brooklyn; Mr. Herman Spiegel, of N. Y. city. That is all,

I think. The parties above mentioned all made bound-bosom shirts for us except possibly Miss Lizzie Gass, who inspected them. Her father works for me now.

Q. 27. The question calls for the names of those who made shirts for you or your concern during the time mentioned by you in your testimony on behalf of defendants, and is not limited to those who made the bound-bosom shirts. Please therefore give the names of all the shirt-makers who worked for you at that period without limitation.

A. Allen Burns, Mrs. Tonges. The books presented by me in answer to the subpœna do not show any employees who worked for me in 1867, 1868, and 1869. Throughout my testimony herein upon this examination the names mentioned by me and the books produced by me relate to periods of time subsequent to that referred to n my testimony on behalf of defendants.

500 Solicitor for complainants objects to the entire testimony given by this witness on the ground that the answers do not cover the period inquired about and the books do not cover that period, and the witness is requested to produce books covering the period from 1867 onward, which was referred to in his testimony on behalf of defendants herein.

By the WITNESS: I hunted all over my old books before and produced all I could find at that time. I can make further search, and if anything is found I will produce it.

Solicitor for complainants reserves his right to make further objection to the testimony of this witness on further examination of the books already produced by the witness as such examination may furnish the opportunity and basis for.

Solicitor for complainants here gives notice that he will move the court at the proper time to strike the testimony of this witness from the record.

The hour of half past four having arrived, the witness having stated that the names of the shirt operators, work people, and other employees of the witness during the term of years when the bound *bosom* shirt bosoms testified about by him were made are not found in the books produced by him, the witness is requested to produce the books covering the period referred to in his testimony on behalf of defendants at the next meeting, of which he will be given due notice. Solicitor for complainants here notifies solicitors for

501 defendants that on the coming motion day he will ask the court for an order extending the time of complainants for taking testimony in rebuttal herein, and that such motion will be based on the record, on the affidavits served and filed in the last motion for extension of time, and on additional affidavits which he may serve upon him.

Solicitor for complainants further asks the examiner to note upon the record whether the witness Ballin, who has been notified to appear and — paid his witness fee herein, has appeared in accordance with the subpœna served on him.

The examiner states that the witness Ballin did not appear at

this session; but a messenger from said Ballin did appear and stated that said Ballin was not in when the paper was left for him, but that he had received it at ten minutes before four p. m. The messenger was informed that the examination was proceeding and that Mr. Ballin should appear forthwith. The witness fee was taken back to said Ballin by the said messenger.

The witness here signs his deposition.

ISAAC FRANK.

Adjourned subject to notice.

502 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
CLAFLIN *et al.*
} In Equity.

SIR: Please take notice that I shall take testimony in rebuttal on behalf of complainants herein at 2 o'clock p. m., December 18, 1886, Saturday, before Timothy Griffith, Esq., a standing examiner, at his office, in the United States building, New York city. You are respectfully requested to attend and cross-examine the witnesses, etc.; witnesses to be examined under the 67th rule in equity, as amended.

Yours truly, JAMES A. SKILTON,
Solicitor for Complainants.

Dated New York, December 17, 1886.

To David Tim, Esq., solicitor for defendants.

503 NEW YORK, *Dec. 18th*, 1886—2 p. m.

Met pursuant to notice.

Present: Counsel as before.

Examination of the witness BALLIN continued:

Q. 85. Have you the books called for in the subpœna and in the notice given you to appear here to-day?

A. I have not those books, because the weather was inclement and I had to stop on my way from the store, and I ask the indulgence of counsel to consent to an adjournment to-day on account of a pressing business engagement.

Solicitor for complainants requests the examiner to bring to the attention of the witness the order of Judge Shipman, dated November 15th, 1886, in regard to the production of books by the witnesses Ballin and Frank and to the inspection and making memoranda from the same by the solicitor for complainants, and also to that part of the order particularly which directs that the witness Ballin shall answer q's 27, 29, and 41 already put to him and found in the records, and asks that the witness be permitted to answer the questions referred to.

A copy of the order referred to was shown to the witness.

Q. 86. Question 27 repeated: "Will you please give the names of any persons recorded in these books produced by you who have been purchasers of the puffed-bosom shirts you claim to have manufactured and sold?" Please limit your answer to the matter
504 and to the time referred to in your testimony on behalf of defendants herein given on the 7th of January last.

A. Not having the books with me, I will give you such names as I remember without them.

Solicitor for complainants objects to the witness proceeding in the manner evidently intended unless he can point out the page or otherwise indicate or point out the particular account or memorandum in these books to which his statement may refer.

Defendants' solicitor states that before this question was asked this witness testified and complainants' counsel knew that the books in question were not presented at this examination to-day, and in view of these facts, having propounded this question to the witness and the witness being about to reply thereto, complainants' solicitor had and has no right to stop the witness in the middle of his answer, especially if the witness is able to answer the question without the aid of the books, and cannot be forced to cease his answer unless he can give the page of the book containing said names, and states to the witness that if he can give such names as are asked for in answer to said question without the books he has a perfect right to do so, although stopped short in his answer by complainants' solicitor.

Question withdrawn.

Solicitor for complainants here gives notice of a motion for an order to punish this witness for contempt in not producing the books for inspection and for the taking of memoranda there-
505 from, as directed by the court by subpœna and by the order.

By the WITNESS: "If you will take a recess until next week I will produce the books. I cannot to-day."

Adjourned to Monday, December 20th, 1886, at 10 a. m., on motion of solicitor for complainants.

NEW YORK, *Dec. 20th*, 1886—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Examination of the witness BALLIN continued:

The witness produces the books called for in the *subpœna duces tecum* for the examination by complainants' solicitor under the order of the court.

A leaf from Book No. 2, for identification, which would be pages 45 and 46 appears to have been cut out, and apparently in the cutting of that leaf the next leaf, which contains pages 47 and 48, was cut three-fourths of the way to the bottom.

The examiner certifies as above.

Counsel for complainants requests the examiner to note that pp. 75, 76, 77, and 78 are torn out of the Book No. 2; also pp. 101, 102,

103, and 104 are torn out; also pp. 183 and 184 are torn out; also pp. 205 and 206; also pp. 269, 270, 271, and 272 are missing, no trace of them remaining in the book; also the lower half of the leaf containing pp. 225 and 226 is torn out.

506 The examiner so certifies.

Recess taken until 2 p. m.

After Recess.

Q. 87. Have you any book or books in your possession of any kind which give any fuller or other description of the style of shirts which you said in your testimony on behalf of defendants herein you made in 1867, '8, and '9 than the description found in the book heretofore produced by you and marked for identification Book No. 2, Nov. 8th, 1886?

A. No, sir.

Solicitor for complainants offers in evidence on behalf of the complainants the book marked No. 2 and referred to in the last question, and the same is marked Complainants' Exhibit Ballin Book No. 2, Dec. 20th, 1886, T. G., Ex'r.

Objected to.

Q. 88. Please give the names of any shirt operators, cutters, or other employees employed by you in 1867, '8, or '9 who knew how the shirts referred to in the Exhibit Ballin Book No. 2 were made or helped to make the same.

Objected to unless the question is restricted to puffed shirts or any other bound-bosom shirts referred to in said book.

A. I don't know the name of any shirt operator that worked for me in those years. I don't remember now the names of cutters or other employees who worked for me in those years.

Q. 89. Can you give the names of any other persons who knew of the shirts being made by you as testified by you on behalf of defendants herein—I mean persons in your establishment—or

507 having knowledge of what was made in your establishment and competent to testify as to what was made in your establishment?

A. I don't remember any now.

Q. 90. How many persons did you have in your employ in the work of manufacturing shirts in the years 1867, 1868, and 1869?

A. Sometimes 20, sometimes 30 or 40, sometimes more than that.

Q. 91. Are any of the same persons now in your employ who were in your employ in 1867, '8, and '9?

A. I don't think there is one.

Q. 92. Are you sure there is not one?

A. I am not sure.

Q. 93. Please name some of the persons now in your employ in your manufacturing department who have been longest in your employ.

Objected to as immaterial, irrelevant, incompetent, and improper.

A. I can't name them, because I don't know now which are the longest.

Q. 94. Please name those that you do remember as being longest in your employ.

Same objection.

A. I don't remember one who has been such a long time in my employ.

Q. 95. Question repeated.

A. I don't remember the name of any that have been in my employ covering that period.

Q. 96. Please give the names of those now in your employ who have been longest in your employ, and also give the address of each one, with the name in full.

508 Counsel for defendants instructs this witness that in accordance with an order made by Judge Shipman he is not compelled to reveal the names of any of his employees except during the period when he manufactured these puffed shirts or bound-bosom shirts, as already testified to by him.

The above question is objected to on the grounds before stated.

Solicitor for complainants requests the examiner to state to the witness what the order of the court was to which reference is made in the foregoing instruction to the witness given by solicitor for the defendants.

The examiner read the order of the court by Judge Shipman referred to to the witness.

The witness asks the examiner to construe the order of the court, and the examiner stated that he could not presume to construe the order of the court, as that might be tantamount to ruling upon the admissibility of evidence.

A. I don't remember the full name of any of my employees, nor do I know their addresses.

Q. 97. If you don't remember the full name or names of such persons, please state such portions of the name or names as you do remember.

Same objection.

A. I remember the name of a boy by the name of Eddie; also by the name of Charley; also one by the name of William; another one by the name of Harry; another one by the name of Ben.; I have two Bens. I don't remember the second names. I have one by the name of Tom. There are several Marys.

509 Solicitor for defendants again objects to the book offered in evidence on the ground that the same is incompetent, irrelevant, immaterial, and improper evidence, and on the further grounds that the solicitor for complainants in his examination of this witness has himself questioned the validity of the book as being a proper book; that the entries have not been properly proven, nor has

this book been shown to be the book used by the witness in his business.

Solicitor for complainants objects to the foregoing objection on the ground that it was not made at the time when the book was offered in evidence, no ground of the objection then made being stated or entered on the record.

Q. 98. Have you looked for the manufacturing book, as requested in Q. 37; and, if yea, have you found that book?

A. I have diligently looked for the manufacturing book and have not found it.

Q. 99, Have you looked for the roll book or books and time books for the years 1867, '8, and '9? And, if you have, please state what was the result of your search.

A. I have looked for them and found none.

Solicitor for complainants objects to the answers of this witness in so far as they relate to shirts made or sold by him during years other than the years 1867, '8, and '9 as not responsive and as volunteer statements, and notice is here given that at the proper time motion will be made to strike out the same from the record on the grounds stated.

Counsel for defendants protests against the foregoing objection of complainants' solicitor on the grounds that no objec-
510 tions were entered at the time when the answers were given, but allowed the answer to go in unobjected to and without reserving any right to object.

Cross-examination by Mr. TIM:

X Q. 100. The Book No. 2 produced by you and to which your attention has been called—will you please state in whose possession it has been and for what length of time?

A. It has always been in my possession nominally, but really it was contained in a box on the top floor with some other old papers, and about 2 years ago when I looked at this box I found that it was full of cockroaches and I removed the old papers and burned them and left these books lay up there, having no use for them. At the solicitation of the counsel for complainants I looked all over the house for these books and found them in different parts of the house, some of the girls using them on their chairs to sit on. I took them away from them and brought them here in the exact condition in which I found them.

X Q. 101. Has this or any of the books produced by you during this examination been tampered with in any wise, manner, or form since you have found them in order to produce them here?

A. They have not. They have been left in the same paper that I brought them in at first and were in my private office.

X Q. 102. Of what material were these puffed bosoms made?

A. Of either cotton or linen.

X Q. 103. Please describe the puffed-bosom shirt after it was completed, confining yourself to the binding of the bosom and the method of attachment of the bosom to the body of the shirt.

Objected to as indefinite, incompetent, and as without foun-
511 dation in the direct examination; and also on the ground that the witness has previously described the shirts referred to when testifying on behalf of the defendants herein.

A. The shirt after it was completed represented a bosom with puffs or plaits on each side of the centre plait, the bosom bound on each side with a strip of muslin or linen and stitched on the shirt or to the shirt.

X Q. 104. Will you please have made such a shirt and present it at some time convenient to yourself for my inspection?

Objected to as irrelevant and immaterial.

A. I will.

Same objection to answer.

X Q. 105. When can you produce it here?

A. In about a week.

Adjourned to Tuesday, Dec. 21st, 1886, at 10.30 a. m.

NEW YORK, *Dec. 21st*, 1886—10.30 a. m.

Met pursuant to adjournment.

Present: Counsel as before for complainants.

At 11.12 a. m. a note was received from Mr. Tim stating that he thought the witness would not appear in time, and asking solicitor for complainants at what hour the testimony would be proceeded with.

512 Solicitor for complainants returned word to Mr. Tim by messenger that he insists on proceeding at this time in accordance with the adjournment made yesterday, having adjourned another case for the purpose of going on with this one.

At 12.12 p. m. solicitor for complainants requests an adjournment to Wednesday, December 22d, 1886, at 10 a. m., neither the witness nor solicitor for defendants having appeared.

Adjourned accordingly.

NEW YORK, *December 22d*, 1886—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

VICTOR HENRY ROTHSCHILD, being produced and duly sworn as a witness on behalf of the complainants, testifies as follows:

Counsel for complainants requests the examiner to certify the fact upon the record that at 10.30 a. m. the witness, Jacob Ballin, who was being cross-examined at the time of the last adjournment but one, does not appear and is not present.

The examiner so certifies.

Q. 1. Are you the party of the same name who testified on behalf of the defendants herein in April last?

A. Yes, sir.

513 Q. 2. Do you appear here in obedience to a subpœna served upon you directing you to produce here certain books containing the record of your shirt manufacture for one or more of the years between 1860 and 1870–'4?

A. Yes, sir.

Q. 3. Have you here the books called for in that subpœna?

A. I have no books from that period.

Q. 4. You did a large business during that period, did you not?

A. Yes, sir. I don't know what you call a large business. It was a fair business.

Q. 5. How many employees did you have engaged in your business prior to 1874 at any one time?

A. That varied from the time that I started until 1874 so much that I would be unable to tell just how many hands I had during any one year.

Q. 6. Please give the outside numbers from the beginning to the end of that period—that is, the smallest and largest numbers of persons in your employ.

A. We might have had the first year probably 200, and in the year 1874 we might have had 1,500.

Q. 7. Have you looked for your order books, cutting books, ledgers, day books, and other books containing the record of your business during the years covered by the subpœna served on you since you were so served?

A. There is no occasion for me to look for those books. I think in 1881 we moved away from the old quarters. All old books then and old papers belonging to the firm of Rothschild Brothers & Gutman were then sold, and particularly such that appertained to the business from 1862 till the expiration of that firm, which expired in the year 1877. In 1862 the firm was Rothschild Brothers, and lasted, I think, until 1868; and the books and papers of that firm I have not got. These books and papers, together with the
514 other books, those of the firm of Rothschild Bros. & Gutman, were sold on the old premises and removed by the purchaser.

Q. 8. To whom were these books sold and by whom removed?

A. They were sold to some junk dealer, but I don't know the man's name nor where he lives.

Q. 9. Were all the books and papers so sold and removed, or did you retain some portion of the same?

A. That was my orders to have them all disposed of, with the exception of such papers and notes as I suppose might have value some day, which were preserved; but no books that I know of.

Q. 10. Do you know of your own knowledge that the books and papers other than those mentioned in the last answer passed out of your custody or power to produce the same in or about the year 1881, as stated?

A. I have never seen them since; they must have passed out of my custody and power to produce the same.

Q. 11. Were your letter books containing letters received and your letter copy books of letters sent sold with the other books and papers at the same time?

A. I think so.

Q. 12. Have you looked for a letter of August 6th, 1875, written to you by James A. Skilton, on the subject of the infringement of letters patent 156,880?

A. I did not look for that letter, but I suppose it is with these other papers that were sold and removed. I looked for a letter of August 6th, 1885, and found none.

Q. 13. If a letter was addressed and delivered to the firm of Messrs. Rothschild Bro. & Gutmann, of Nos. 46 and 48 Leonard street, New York city, dated August 6th, 1875, relating to the specification and in infringement of the letters patent 156,880 granted to Robert Cluett, such letter being signed by James A. Skilton, attorney,
515 and delivered to that firm, have you the letter in your custody or power to produce the same; and, if you have, will you produce the same?

A. That letter must be where the other papers have gone to, and I am unable to produce it.

Q. 14. Do you now remember receiving such a letter?

The question is objected to upon the ground that the witness has already answered in his cross-examination when called as a witness for the defense, and stated that Mr. Gutmann attended to the correspondence, and that this witness knew nothing of the affair.

Solicitor for complainants objects to this interference with the examination and prompting of the witness as highly improper, and calls attention to the fact that the question calls for the present recollection of the witness, and is therefore not covered by the question and answer above quoted from out of the defendants' record.

A. I do not.

Q. 15. Do you say that you did not see such a letter?

A. I do not remember seeing a letter of that kind.

Q. 16. Did you ever have a person by the name of King in your employ?

A. I did.

Q. 17. What was his full name?

A. I could not tell you.

Q. 18. Where does he live?

A. He is not living any more.

Q. 19. At this time where is your brother, who was formerly your associate in business and who was not, as you stated when testifying on behalf of defendants herein, then in the country?

516 A. The last I heard from him was Frankfort-on-the-Main, Germany.

Q. 20. What was the full name of Stobo, who did your laundering as you testified?

A. Couldn't tell you.

Q. 21. Is Mr. Pipo now living? And, if yea, where does he live?

A. I don't think he is living.

Q. 22. Is his partner, Stockmar or Stockman, living, and where?

A. Couldn't tell you.

Q. 23. Do you now recall the name of any of your employees who

worked for you prior to 1870, who knew of the manufacture of shirts by you, as stated in your testimony on behalf of defendants herein?

Question objected to on the ground that the witness, upon his cross-examination, when testifying for the defense, by Mr. Skilton answered this question and stated he did not know any of the employees prior to that date.

The above interruption is objected to on the grounds last above stated.

A. Albert Borchardt, I think, is the only one.

Q. 24. Are you unable to recall any others?

Same objection.

A. No, sir. I am not able to recall any others.

Direct examination closed.

Cross-examination by Mr. TIM:

X Q. 25. You are not positive whether Mr. Borchardt was in your employ prior to 1870?

A. I am not positive as to that.

Cross-examination closed.

517 Redirect examination by Mr. SKILTON:

R. D. Q. 26. When did Mr. Borchardt enter your employ?

A. I could not say that positive.

R. D. Q. 27. When do you think he entered your employ?

A. I couldn't say, unless I asked him. He remembers well. I took him when he was a boy. He left me and came back, and I can't tell when he came back again.

R. D. Q. 28. How long did he remain with you the first time?

A. I could not say that; I don't remember.

R. D. Q. 29. How long did he remain with you the second time?

A. The only thing that I do remember, he has been with me for the last five years, but do not recollect how long he had been with me before I came over to the present location.

R. D. Q. 30. Has he—Borchardt—left your employ and returned more than once?

A. That is more than I can recollect.

R. D. Q. 31. Was Borchardt in your employ in 1875 and 1876?

A. I think so.

R. D. Q. 32. How long before 1875 was he in your employ?

A. Couldn't answer that. I do not know exactly.

R. D. Q. 33. Do you remember the year when he first entered your employ?

Question objected to on the grounds that the witness has already answered the question repeatedly; that it is immaterial, irrelevant, incompetent, and improper evidence, and that the counsel cannot harass and annoy this witness and endeavor to cross-examine, as the witness has been called by him on behalf of the complainants.

518 A. No, sir.

R. D. Q. 34. What were Mr. Borchardt's duties when he first entered your employ?

A. To attend to the manufacture.

Counsel for defendants says "wait a minute."

Objected to on the ground that it is immaterial, incompetent, and improper and is not a proper examination for the redirect, the examination-in-chief having been closed.

A. If I am not mistaken Mr. Borchardt came there to assist the superintendent and afterwards assumed the superintendency of the manufacture himself.

R. D. Q. 35. How old was Mr. Borchardt when he first entered your employ?

Objected to on the same grounds.

A. I do not know exactly.

R. D. Q. 36. Give it as near as you can.

Objected to on the same grounds, and on the further ground unless the witness is able to state of his own knowledge the age of the party referred to.

A. From fifteen to twenty years old.

R. D. Q. 37. When did he take charge, either fully or to any extent, of your manufacturing department?

Objected to on the same grounds.

A. I couldn't tell you when he took full charge or when he took part charge.

R. D. Q. 38. How long did he remain in your employ when first engaged in your employ?

Objected to as immaterial, irrelevant, incompetent, im-
519 proper, and not proper redirect examination, and the matter has been fully entered into upon the direct examination here to-day.

A. I do not recollect any more.

R. D. Q. 39. When did he enter your employ the last time?

Same objection, on the same grounds.

A. The only thing I know positive is that he has been with me at my present location for the past five years. How long before he entered his services with me I do not exactly know.

R. D. Q. 40. How long an interval was there between his first and second service with you?

Objected — on the same grounds.

A. I do not recollect.

R. D. Q. 41. What was he doing in the meantime—that is, between the time of leaving your service and resuming again?

Objected to on the same grounds.

A. I think he went with a firm styled Moses, Blom & Weil.
R. D. Q. 42. How long was he out of your employ at that time?

Objected to on the same grounds.

A. I don't recollect any more how long.
R. D. Q. 43. Was he in the employ of Moses, Blom & Weil more than two or three years?

Objected to on the same ground.

A. I do not recollect any more.
R. D. Q. 44. Was Mr. Borchardt in your employ in 1870?

Objected to on the same grounds.

520 A. I do not recollect.
R. D. Q. 45. In 1871?

Objected to on the same ground.

A. I don't recollect either.
R. D. Q. 46. 1872?

Objected to on the same ground.

A. I do not recollect.
R. D. Q. 47. 1873?

Objected to on the same ground.

A. I do not recollect.
R. D. Q. 48. 1874?

Objected to on the same ground.

A. I do not recollect.
R. D. Q. 49. 1875, 1876, and 1877?

Objected to on the same ground.

A. I think he has been in our employ in either one of those years.
R. D. Q. 50. Which one?

Objected to on the same ground.

A. I think in 1876, from some certain occurrence. That is the only year I am sure of, and he may have been there all the years that you have mentioned.
R. D. Q. 51. But you have no recollection of his being there in any of those years other than 1876, as stated?

Objected to on the same ground.

A. I am not sure during what year he has been in my employ of those years mentioned or asked for above.
521 R. D. Q. 52. Did he first take charge of your manufacturing department during the second time of his service with you?

Objected to on the same ground.

A. He was in charge of the manufacturing the first time of his being connected with me.

R. D. Q. 53. During what portion of that time was he so in charge of your manufacturing department?

Objected to on the same ground.

A. I could not state the years or the time. That is something that he can do very easy, as he had nothing else on his mind from the time when he entered my services, and his memory was very good.

R. D. Q. 54. Was he in charge of your manufacturing department during any considerable portion of his first term of service with you?

Objected to on the same grounds.

A. Yes; he was.

R. D. Q. 55. About how many years of that time?

Objected to on the same ground.

A. Could not tell you.

R. D. Q. 56. If he entered your employ in 1869 was he in charge of the manufacturing department in 1870?

Objected to on the same ground, and on the ground that the witness has not yet stated that this party entered into his employ in 1869, and the counsel cannot by this method seek to cross-examine his own witness.

522 A. I don't know whether he was in our employ in 1869 or in 1870 positively. I can't answer any more than I have.

R. D. Q. 57. If he entered your employ in 1870 was he in charge of your manufacturing department in 1871, in 1872, in 1873, in 1874, in 1875, in 1876, or in 1877 or either of them?

Objected to on the same grounds.

A. He has been in charge in some of these years above mentioned, and might have been in charge all of the above time for all that I know.

R. D. Q. 58. What opportunity did Mr. Borchardt have of knowing of the different styles and method of manufacturing shirts during the term of his first service with you?

Objected to on the same grounds.

A. I have considered Borchardt a genius, and he acquired a knowledge of anything he was told to do very quickly, and Mr. King, with whom he acted, was also a genius; therefore had a very easy way of taking hold of things appertaining to the manufacture. He had every opportunity of knowing all that was being done appertaining to manufacturing.

R. D. Q. 59. When he first came to you was he qualified to understand the manufacture of shirts?

Objected to on the same grounds.

A. I don't recollect that any more.

R. D. Q. 60. When did Mr. Borchardt learn manufacturing, if you know? Was it in your establishment or elsewhere?

Objected to on the same grounds.

A. I could not tell you when he learnt it.

523 R. D. Q. 61. Did he learn it in your employ or before he entered your employ?

Objected to on the same grounds.

A. He certainly learnt it somewhere, for he is a thorough manufacturer to-day—no better in America or elsewhere. He might have known it before he came in contact with King.

R. D. Q. 62. How many years has Mr. Borchardt been in your employ during the last term of service?

Objected to on the same ground and on the further ground that this question has been repeatedly asked and answered.

A. I can't answer this any better than I did in two or more instances to-day. He has been in my employ since I have been on the corner of Leonard and West Broadway, and how much longer I don't recollect.

R. D. Q. 63. When did you go to Leonard street and West Broadway?

Objected to on the same grounds.

A. I think it was in the fore part of the year 1881. I refer to the last engagement.

Redirect examination closed.

Counsel for defendants objects to all the testimony of this witness upon the redirect examination upon the grounds herein stated, and gives notice to the counsel for complainants that at the proper time and place he will move this court to strike said testimony from the records of the case.

VICTOR HENRY ROTHSCHILD.

Sworn before me—

TIMOTHY GRIFFITH, *Examiner.*

Adjourned to 2.15 p. m.

524 *After Recess.*

Counsel appear as before.

Solicitor for complainants states that he has now waited more than three-quarters of an hour after the time to which the session was adjourned, and that the witness Ballin has failed to appear, and thereupon asks the examiner to certify to the fact.

The examiner so certifies.

Solicitor for complainants gives notice to the solicitor for defendants that on the next motion day he will move for an order of the court for the witness Jacob Ballin to show cause why he should not

be punished for contempt in failing to appear and testify under the subpœna, properly issued and served upon him, commanding him to appear and testify in this case, and that this motion will be based upon the record and upon papers filed in this case.

Solicitor for complainants states that he is through with the examination of the witness Jacob Ballin; that the solicitor for defendants proceeded with his cross-examination of the witness and, as the record shows, stopped his cross-examination while the witness was on the stand and proceeded to question the witness as to matters and in a manner for which there was no foundation in the direct examination, and thereby made the witness his own witness to introduce a new subject in the record.

Solicitor for complainants further states that the time for
525 the defendants to put in evidence has long since past, and that the only evidence which is now competent is evidence on behalf of the complainants in rebuttal. He therefore objects to the further examination of this witness on the line upon which the solicitor for defendants was proceeding, and especially objects to this manner of hindering the proceedings herein during the limited period of thirty days allowed by the court for the complainants to finish their testimony in rebuttal.

Solicitor for complainants further states that the witness Jacob Ballin and the solicitor for defendants are apparently acting in collusion with each other for the purpose of making delay, as shown by a letter of the solicitor for complainants, the original of which is hereby offered in evidence and made a part of the record on behalf of the complainants and marked Complainants' Exhibit Tim Letter of December 21, 1886, December 22, 1886, T. G., Ex'r.

Counsel for defendants replies that upon the cross-examination of the said witness, Ballin, five questions were asked, when, at five p. m., the witness asked to be excused, to which all parties present assented; that at that time Mr. Skilton remarked that the next meeting would be held the next day at 11 a. m.; that this witness, Ballin, was always half an hour behind time, and that he (Mr. Skilton) could not proceed with the examination on that adjourned day longer than 12 m.; that in consequence of these remarks this letter was written to Mr. Skilton by counsel for defendants and because counsel for defendants was engaged before and up to about
526 12.30 p. m. of the day taking testimony in a matter before Wm. E. Cook, Esq., referee appointed by the city court of New York, and at the same time when Mr. Skilton insisted upon going on, counsel for defendants sent one of his clerks to the examiner's office where the testimony was to be taken to await the arrival of the witness Ballin, and immediately upon his arrival to return and let said counsel know the fact; that the clerk waited till about twelve minutes past 12, when the meeting adjourned. Counsel for defendants further states that he personally sent word to the witness Ballin yesterday and to-day to appear here this a. m. at ten o'clock, to which hour the meeting was adjourned; that the cross-examination of this witness has not been concluded, and that the questions asked at the time of the adjournment aforesaid were

directed to the questions and shirts asked and testified to upon the examination-in-chief; that the said witness, Ballin, at the time of said adjournment was not subpœnaed or directed by the ex'r to appear at the adjourned meeting, nor was he at that time paid any witness fee to appear; that it is the duty of the solicitor for the complainants to produce this witness for cross-examination until the same is closed. Counsel for defendants further states that until the witness does appear he will interpose no objection to the production and examination of any other witness.

Solicitor for complainants denies that he said that the next meeting would be at 11 a. m. as stated, but, on the contrary, re-
527 quested that the adjournment be taken to 10.30, which was done, as the record shows. He did, however, lecture the witness for his continued practice of attending the examination sometimes half an hour and sometimes longer after the hour named for the commencement of the examination, the witness having on the day of the last adjournment occupied the time of all parties more than an hour in waiting for his appearance; and, further, the solicitor for complainants insisted that the witness should appear on time for the reason that the solicitor for complainants could not waste another hour on the following day.

The letter already made a part of the record was received by Mr. Skilton, but not until after waiting three-quarters of an hour beyond the time set for taking testimony. The solicitor for the defendants at the time of the adjournment did not object to proceeding with the examination on the following day upon the adjournment as made, gave no notice to the solicitor for complainants whatever prior to the meeting on the following day, and except that contained in the letter already in evidence. At the time of the adjournment the witness Ballin promised to be present on the following day, and up to this time has failed to comply with his promise.

Solicitor for complainants requests an adjournment without day.

Solicitor for defendants objects to this request on the ground that the cross-examination of the witness Ballin is still in progress and not complete; that the ex'r has no such power, and that if
528 the witness Ballin does not appear to-morrow morning that defendants' counsel will subpœna him to appear to-morrow, and gives this notice to the solicitor for the complainants.

The examiner adjourns the case, subject to notice.

United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
CLAFLIN *et al.*
} In Equity.

SIR: Please take notice that I shall take testimony in rebuttal on behalf of complainants herein at 10 o'clock a. m., Tuesday, January 4, 1887, before Timothy Griffith, Esq., a standing examiner, at his office, in the United States building, New York city. You are respect-

fully requested to attend and cross-examine the witnesses, etc.; witnesses to be examined under the 67th rule in equity, as amended.

Dated New York, January 3, 1887.

Yours truly, JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants.

January 3, 1887.—Service of within notice accepted.

DAVID TIM,
Solicitor for Defendants.

529 NEW YORK, *January 4th*, 1887—11 a. m.

Met pursuant to notice.

Present: Counsel as before.

Cross-examination of the witness BALLIN continued:

X Q. 106. The other books produced by you in answer to the subpœna, to wit, Books Nos. 1 and 3, are they in a perfect state of preservation?

A. They are not.

X Q. 107. Are any pages missing in these books?

A. I don't know whether there are pages inside, but on Book No. 1 there seems to be a part missing altogether and some pages in the front, and also, as I see now, some pages are torn inside. The books were kept upstairs with the Book No. 2, no stress being laid on their value as books of record. They were kept in the workshop. Pages from 46 to 49 are missing in Book No. 1; also half of pages 71 and 72; also pages from 106 to 111.

X Q. 108. The puffed shirts that you have testified to under your examination-in-chief, were they shirts made in accordance with the testimony you have given in this case covering bound-bosom shirts?

A. They were.

X Q. 109. And during the period mentioned in your testimony?

A. I don't remember distinctly to what period I referred. They were manufactured as early as 1860 and previous to 1860.

Answer objected to as incompetent, irrelevant, and immaterial.

Cross-examination closed.

Redirect examination by Mr. SKILTON:

530 R. D. Q. 110. Is it your opinion that the defacement of Book No. 2, to which attention has been called, was done by cockroaches?

A. It is not.

R. D. Q. 111. The pages referred to have been torn out of that book, have they not, except in one instance, and in that case a knife has been used to cut out one or more leaves?

A. Evidently.

R. D. Q. 112. And both the cuts and the torn edge of the paper remaining have a new and fresh appearance, have they not?

A. Not evidently.

R. D. Q. 113. What is the fact about that?

A. The fact is that they are torn and cut.

R. D. Q. 114. Have the torn and cut edges of the paper a fresh appearance as if freshly torn or cut, or not?

A. Never having compared the leaves or edges of fresh-torn papers and the leaves or edges of old-torn papers, I could not tell you.

R. D. Q. 115. Don't you know the difference between the appearances presented by the edges of paper freshly torn and the edges of paper that have been torn for a long time?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. I just answered that question that I didn't know because I had never made the comparison.

R. D. Q. 116. Isn't your ordinary intelligence sufficient to enable you to understand the difference between them?

Objected to on the same grounds.

A. It ought to be. I consider myself ordinarily intelligent.

R. D. Q. 117. Then I ask you, as an ordinarily intelligent
531 man, with your ordinary intelligence to answer R. D. Q. 114, which the examiner will please read to the witness again.

Objected to on the same grounds; also on the further ground that the question has been already answered.

A. If my previous answer is not intelligent enough, then I will consider myself to the gentleman examining me as an unintelligent man. But to simplify matters I will state that the books produced by me in court have been found in the same state in which they are produced; that I did not know previous to their being found that they could be found; that no mutilation or cutting out of leaves took place by my order or by the order of anybody under my control or in our house, but that such mutilation must have taken place by reason of their being exposed to any one who could lay their hands on them. Some of the pages may have been torn out to wrap things in or they may have been used for the water-closet, for all I know.

The foregoing answer is objected to by Mr. Skilton as irresponsive to the question.

R. D. Q. 118. You have twice made irresponsive answers to R. D. Q. 114. I renew the question and insist on a responsive answer.

Same objections.

A. I will answer the question more distinctly after two torn leaves have been presented to me—one a fresh-torn leaf and the other an old-torn leaf.

Answer objected to as irresponsive and volunteered.

R. D. Q. 119. R. D. Q. 114 repeated.

Same objections.

532 A. To enable me to answer the question I ask the counsel to state what he considers a fresh-torn leaf.

Answer objected to as irresponsive.

R. D. Q. 120. My question relates to the pages in Book No. 2, to which your attention has been previously called, as torn or cut. What I want to know is a matter of fact, and I repeat R. D. Q. 114.

Same objections, and on the further ground that the witness has repeatedly answered the question.

A. I answered to the best of my ability and knowledge, and could not make it any clearer.

R. D. Q. 121. Question repeated, and the examiner is asked to re-read the question to the witness.

Same objections.

A. I don't know.

R. D. Q. 122. Haven't you examined the book and the leaves to see what the fact is in that regard?

Objected to on the same grounds, and on the further ground that a solicitor cannot cross-examine his own witness.

A. I have not.

R. D. Q. 123. Haven't you so examined them since the facts as to the condition of this book were stated on the record at the meeting on December 20th?

Same objections.

A. I have not.

R. D. Q. 124. Had you examined the book before that time so as to know what the condition of those leaves was?

Same objections.

533 A. I had not.

R. D. Q. 125. Haven't you examined this book since you first found it and produced it under the *subpœna duces tecum* served upon you so as to know what the condition of these torn or cut leaves was or is?

Same objections.

A. I only examined it here conjointly with you, and then first ascertained its condition.

R. D. Q. 126. When did you first learn that the pages were cut or torn in Book No. 2?

Objected to on the same grounds, and also that the witness has just answered the question.

A. When you called my attention to it.

R. D. Q. 127. When was that?

Objected to on the same ground.

A. That is to be ascertained in these examination papers. I don't remember exactly.

R. D. Q. 128. Do you refer to the time when, on December 20th, the examiner certified on this record that pages 45, 46, 47, 48, 75, 76, 77, 78, 101, 102, 103, 104, 183, 184, 205, 206, 269, 270, 271, 272, 225, and 226 were torn out or cut out?

Objected to on the same grounds.

A. I simply say that it was the time when you first called my attention to it, whenever that was. I don't know the date.

R. D. Q. 129. Did you examine the pages and the torn or cut edges referred to in the certification of the examiner herein on the 20th day of December last at the time when the examiner's attention was so called to the matter?

Same objections.

534 A. I don't remember that I did.

R. D. Q. 130. Did you examine them at any other time after that time?

Same objections, and as having been repeatedly answered.

A. I did not.

R. D. Q. 131. Don't you know whether those torn or cut edges are freshly torn or not?

Same objections, and that this question as well as the others has been repeatedly answered.

A. I do know that they are not freshly torn.

R. D. Q. 132. How do you know it?

Same objections.

A. Because it is some months since I have produced them here.

R. D. Q. 133. How does that show it?

Same objections.

A. I don't know.

R. D. Q. 134. How does it prove it?

Same objections.

A. I don't know either.

At the request of Mr. Skilton further examination of this witness is postponed until after recess.

After Recess.

Present: Mr. Skilton, for complainants, and the witness; and Mr. Tim, absent, engaged in a case elsewhere.

535 At the request of the solicitor for defendants Mr. Skilton refrains from putting questions to the witness during the absence of the solicitor, and enters upon the examination of the books produced by the witness and in the presence of the witness under the order of Judge Shipman herein of November 15th, 1886.

The witness states that under instructions from counsel nothing is to be copied excepting that relating to puffed or bound bosom shirts, and as the solicitor for complainants has made memorandums and refuses to tell the witness to what they relate witness states that he will not allow the examination of the books except in conformity with the order of the court heretofore read to *me*, and he takes them away from the solicitor for the complainants in the absence of solicitor for defendants, and also in the absence of the examiner, Mr. Griffith.

Solicitor for complainants states that the witness insists on removing the books and preventing the inspection and the taking of memorandums therefrom by the solicitor for complainants, which were being made in strict conformity with the order of Judge Shipman of November 15, and states further that he will take the necessary steps to have this witness punished for contempt in disobeying the order of the court and interfering with the progress of this case.

At the request of complainants' solicitor further proceedings in this case are adjourned until 10 a. m. to-morrow, Wednesday, January 5th, 1887.

536 Witness receives his witness fee of $1.50, and is requested to attend here at 10 o'clock Wednesday, January 5, 1887.

Adjourned accordingly to Wednesday, January 5, 1887, at 10 a. m.

NEW YORK, *Jan'y 5th*, 1887—10 a. m.

Met pursuant to adjournment.

Present: Mr. James A. Skilton, counsel for complainants.

Now, at 10.30 a. m., no one appearing on behalf of the defendants, and the witness Ballin not having appeared, at the request of counsel for complainants this examination is adjourned to 3 o'clock p. m. this 5th day of January, 1887.

Met pursuant to adjournment at 3 p. m.

Present: Mr. Skilton and the witness, Mr. Ballin.

Mr. Skilton insists on his right to proceed with the examination of the book and to the taking of memorandums therefrom in the same manner as that being pursued by him on Tuesday last when interrupted and interfered with by the witness, who resumed possession of the books and interrupted the inspection of the same then being proceeded with by the solicitor for complainants.

The witness asks to have the order of the court of Nov. 15, 1886, read to him, and the examiner reads the same.

537 The witness calls attention to his reason for refusing given yesterday and asks the examiner whether, under the impression he then was, he was wrong.

The examiner declines to construe the order of the court, which alone can be passed upon by one of the judges of this court.

Witness states that he will leave the books in the possession of Mr. Griffith, the examiner, to be inspected in his presence by Mr. Skilton, and to make such memoranda as he is allowed under the order of the court, and the books are so left with the examiner.

Adjourned until to-morrow at 10 o'clock to enable Mr. Skilton to make inspection and to take memoranda from the books.

NEW YORK, *Jan.* 6, 1887.

Adjourned, on motion of Mr. Skilton, to to-morrow, January 7, 1887, at 11 a. m.

NEW YORK, *Jan.* 7, 1887.

Met pursuant to adjournment.

Present: Mr. Skilton, for examination of the books.

Adjourned at 1.20 p. m. until Tuesday, January 11, 1887, at 10 o'clock a. m.

538 NEW YORK, *January 11th*, 1887—10 a. m.

Met pursuant to adjournment and notice.

Present: James A. Skilton, Esq., counsel for complainants.

No one being present on behalf of defendants, the right of objection is, by consent, reserved for defendants.

JOHN V. VAN ARSDALE, being produced and duly sworn as a witness on behalf of complainants, testifies as follows:

The examination of the books, proceeding at the last session, is suspended for the purpose of taking the testimony of the above-named witness, at the request of the solicitor for complainants.

Q. 1. How do you appear here?

A. Upon subpœna served on the collector, Daniel Magone, to produce certain documents.

Q. 2. What is your name, age, residence, and occupation?

A. John V. Van Arsdale; age, 45; reside No. 223 Carroll street, Brooklyn; occupation, clerk in the N. Y. custom-house.

Q. 3. Will you please produce all the custom-house passenger lists of the Bremen steamer Weser filed in the U. S. custom-house in the city of New York in the months of November and December, 1870, and the months of January and February, 1871, and state when the steamer Weser arrived in the port of New York during those four months?

A. The steamer Weser arrived Dec. 2d, 1870, and Feb. 13th, 1871. There is no record of her arrival in November, 1870, or January, 1871, and I here produce her passenger lists on her arrival on Dec. 2d, 1870, and Feb. 13th, 1871.

539 The solicitor for complainants offers the two passenger lists referred to in evidence on behalf of complainants, and the same are marked respectively as follows: Cluett *et al. vs.* Mack *et al.*, Complainants' Exhibit Weser Passenger List, Dec. 2d, 1870, T. G., Ex'r; Cluett *et al. vs.* Mack *et al.*, Complainants' Exhibit Weser Passenger List, Feb'y 12th, 1871, T. G., Ex'r.

Q. 4. Did the Bremen steamer Weser arrive in the port of New York during the months of Dec., 1871, and Jan'y, 1872; and, if your answer is yes, on what dates?

A. It arrived Jan'y 5th, 1872. No arrival in Dec., 1871.

Q. 5. What is the book you have examined previous to making this statement?

A. It is the record of arrivals of foreign vessels at the port of N. Y. from June 10th, 1870, to Jan'y 31st, 1872.

Solicitor for complainants offers in evidence the book referred to on behalf of complainants, and the same is marked Complainants' Exhibit Custom-House Book of Arrivals of Foreign Vessels, T. G., Ex'r.

Q. 6. Will you please produce the custom-house passenger list of the steamer Weser of January 5th, 1872?

A. I do so.

Solicitor for complainants here offers in evidence the passenger list referred to on behalf of complainants, and the same is marked Cluett *et al. vs.* Mack *et al.*, Complainants' Exhibit Weser Passenger List of Jan'y 5, 1872, T. G., Ex'r.

540 Q. 7. Are you familiar with the practice and custom of business in the U. S. custom-house for the port of New York as to recording the arrivals of foreign vessels; and, if yea, what is the custom?

A. I am. Upon the arrival of a foreign steamer or any vessel in the port of New York the manifests are presented to the custom-house and a record made in the book of the arrivals of the name of the vessel, date, captain's name, and the tonnage and where from. The book I have here produced and which has been put in evidence is the same that is kept.

Q. 8. Are you familiar with the course of business in the custom-house at the port of N. Y. as to passenger lists of foreign vessels? And, if yea, please explain what it is.

A. I am. Upon arrival of a steamer at the port of N. Y. there is always a passenger list, containing a list of all the passengers, filed by an officer of the ship in the custom-house, sworn to by the captain of the vessel before a deputy collector.

Q. 9. Are the three passenger lists that have been here put in evidence such passenger lists and the original papers so filed in the N. Y. custom-house as containing the names of the passengers of the steamer Weser on her arrival upon the dates mentioned?

A. They are.

At 10.55 a. m. recess taken until 11.30 a. m. at the request of defendants' counsel and solicitor.

11.30 A. M.

Mr. Louis C. Raegener appears on behalf of defendants.

Direct examination of this witness closed.

No cross-examination.

541 Defendants' counsel waives signature of witness to this testimony.

JOHN V. VAN ARSDALE.

Sworn to before me—

TIMOTHY GRIFFITH, *Examiner.*

EDWARD S. BERRALL, being produced and duly sworn on behalf of complainants, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Edward S. Berrall; age, 23 years; reside at 258 13th street, Brooklyn; occupation, stenographer.

Q. 2. Do you know Jacob Loeber, one of the witnesses on behalf of the defendants in this cause?

Counsel for defendants objects to the question and answer and every succeeding question and answer on the same ground, to wit, that the admissions or statements of Jacob Loeber to this witness, Loeber not being a party to the suit, are immaterial, irrelevant, and incompetent and in the nature of hearsay evidence.

A. Yes.

Q. 3. Did you ever have any conversation with him or hear him make any statements as to the time he left Germany and the time when he arrived in the port of New York and the name of the vessel by or on which he arrived; and, if yea, what statement did he make as to those matters?

A. I heard him say that he left Germany in December, 1870, and arrived in this country in January, 1871, and that he came on the steamship Weser, of the Bremen line.

542 Q. 4. To whom did you hear him make that statement or in whose presence, if any one was present besides yourself?

A. To James A. Skilton.

Q. 5. Where?

A. In Philadelphia.

Q. 6. What place in Philadelphia?

A. I believe it was at Mr. Loeber's home in Newmarket St. I can't give the number.

Q. 7. Did you hear him, Jacob Loeber, at that time make any statement as to when he could positively say that shirt fronts with a strip of material on the edge of the front were made by Alexander Sinzheimer for Rosenbach; and, if yea, what was the earliest date he was able to fix positively as to when it was done?

Same objection, and, further, that it is not proper rebuttal and improper to get in alleged admissions of a witness produced by defendants, not cross-examined by complainants and not now produced as a witness.

A. Yes; 1876.

Q. 8. Was Mr. Jacob Loeber in the employ of Alexander Sinzheimer & Hagedorn & Newman at the time when he made the statements to which you testify?

A. I think he was on a strike at the time or had left the employ of Hagedorn & Newman.

Q. 9. At about what time was this conversation?

A. About October 30th, 1886.

Q. 10. What business was he engaged in at that time?

A. He said he had started a cigar factory.

The further objection is made to this testimony that it is not the best evidence, and a motion will be made to strike it out.

543 Cross-examination *de bene esse* and without waiving any of the prior objections:

X Q. 11. The James A. Skilton referred to in the testimony is complainants' solicitor and your employer, is he not?

A. Yes, sir.

X Q. 12. You have taken a greater part of the testimony for complainants on the typewriter in this case at New York, Philadelphia, and Troy, have you not?

A. I have taken a great deal of it.

X Q. 13. Bearing in mind the testimony you have given on your direct examination and without repeating any, please give, as near as you can, everything else that was said by you, Mr. Skilton, or Mr. Loeber, and also tell us what, if anything, was shown or exhibited to said Loeber.

A. I don't think there was much else said; something as to whether he was a friend of Sinzheimer's now or not, and he said he had nothing against him. I am not positive whether anything was shown to him or not. There was something said about how the strike came about and how he came to leave them, and I think he said he sided with the girls that had left.

X Q. 14. You are not positive that anything was shown to Loeber. What is your opinion or belief in the matter?

A. I don't remember that he was shown anything.

X Q. 15. Was anything said in regard to any testimony given by Loeber or others in this case?

A. There may have been. I don't know just what it was, though.

X Q. 16. Then you didn't see or hear everything that took place at that interview, did you?

A. I think I heard everything.

X Q. 17. Then you don't remember everything that occurred there?

544 A. No; not everything.

X Q. 18. What is your best impression or recollection of what was said about this case or any testimony therein?

A. As I don't remember just what was said, I don't think that much could have been said.

X Q. 19. Have you a good memory or a convenient one, so as to remember such things as you desire to remember and forget those that is convenient to forget?

A. I have a pretty good memory, I think. I have no desire not to remember anything.

X Q. 20. Bearing in mind what you testified to on your direct examination, state what was said when you entered Mr. Loeber's house, explaining the object of your visit.

A. I think Mr. Skilton introduced me to Mr. Loeber by name. Mr. Skilton said to him he wanted to have a little conversation with him in connection with his testimony, and Mr. Loeber led the way into a room and we all took chairs.

X Q. 21. Was anything said about naturalization or becoming a citizen?

A. No, sir; I think not.

X Q. 22. How long did you stay at Loeber's house?

A. About half an hour to three-quarters.

X Q. 23. What time of day was it?

A. It was in the morning; it was after breakfast.

X Q. 24. Who else was present besides yourself, Mr. Skilton, and Mr. Loeber?

A. No one.

Cross-examination closed.

Redirect examination:

R. D. Q. 25. Did Mr. Loeber state in what capacity he worked for Hagedorn & Newman, as you remember?

545 A. I don't remember that.

R. D. Q. 26. Do you recall any use made of a piece of paper at that conversation to show how the strip on the edge of the shirt front made by Sinzheimer was intended to be folded; and, if yea, what was it?

A. I remember there was a piece of paper folded by Mr. Loeber to represent a part of a shirt bosom.

R. D. Q. 27. Have you that piece of paper with you?

A. No, sir.

R. D. Q. 28. At the recess will you make search and see if it can be found?

A. I will.

Recess taken until 2 p. m.

2 P. M.

Examination resumed:

R. D. Q. 29. Have you searched for the piece of paper enquired of above? If so, have you found it?

A. I have searched for it, but could not find it.

EDWARD S. BERRALL.

Sworn to before me—

TIMOTHY GRIFFITH, *Examiner.*

Adjourned to Thursday, Jan'y 13th inst:, at 10 a. m.

546 NEW YORK, *Jan'y 13th*, 1887—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

EDWARD S. BERRALL recalled:

Q. 1. Have you served a notice upon Mr. Jacob Ballin to appear here and testify in this case? Have you paid him the witness fee of $1.50? And if you say yea to both of these questions what was his reply?

A. I handed him the notice and left the fee of $1.50 with him, and he said he would not come to-day, as he only got the notice at half past ten. He said it was impossible to come this forenoon.

Direct examination closed.

Cross-examination:

X Q. 2. Did you serve a subpœna on him to appear to-day or was it a simple notice from Mr. Skilton?

A. A simple notice.

X Q. 3. And when was this served?

A. At not quite half past ten this morning.

X Q. 4. And did the notice state that he should appear this morning?

A. Yes, sir.

X Q. 5. At what hour?

A. At ten.

EDWARD S. BERRALL.

Sworn before me--

TIMOTHY GRIFFITH, *Examiner.*

547 A recess is taken till 2 p. m., and the witness, Jacob Ballin, is notified by a letter signed by both solicitors to appear.

After Recess.

2 P. M.

Present: Counsel as before and the witness, Jacob Ballin.

R. D. Q. 135. I place in your hands three strips or portions of shirt bosom, two of which have on one side a piece of material representing the shirt body and its position and relation to the shirt bosom, to which the pieces are stitched. These strips are marked as follows: One of them with a cipher or letter *o*, another with two of them, and another with three of them, and they are also marked No. 1, No. 2, and No. 3 respectively. Please examine these three specimens and state which one of the three represents the puffed bosoms referred to in your testimony herein on behalf of defendants, and also which one of them represents the puffed fronts, puffed bosoms, or puffed-bosomed shirts, or the method of making the same, the sale of which or the manufacture of which is stated in the Books Nos. 1, 2, and 3 here produced by you.

A. Nos. 1 and 3 represent the styles of puffed bosoms which we manufactured and sold as such. No. 1 represents the style that we used in shirts when we made the shirts complete. We did not fasten the bosom to the shirt as represented in No. 3. When the bosom was made like No. 3 we would run the body of the shirt on a single ply of linen, as shown on the back of No. 3, on the side opposite to where the body is attached. We would run it on and switch it down on the outer edge. The binding was generally not as wide as shown on this sample.

R. D. Q. 136. Is not the piece representing the body secured to

548 the bosom in the way you have just described—that is, by being "run on"—and, if not, please explain why not? I refer to No. 3, as to which you have just testified.

A. The way it is shown on this strip, the body is secured to the bosom; but this is not the manner in which I secured the body to the bosom. It is not secured in the manner I have previously described. It is run on and then felled. That means a second row of stitching. The difference between the two methods is this: that in my method the outer pleat was stitched down to the body of the shirt on the outer edge of the bosom or of that binding, while in this method this pleat is left loose and does not present a finished appearance.

(The witness refers to the opposite side of the strip No. 3.)

R. D. Q. 137. You have not explained comparatively what you meant by saying that in your method it was first "run on." What is the fact about that?

A. The body of the bosom was run on on a single ply of linen at the back of the pleat and stitched down on the edge of the pleat.

R. D. Q. 138. Will you please represent by a dotted ink line on strip No. 3, at the side opposite to that which has the strip felled on, where the line of stitching was located which accomplished the running on to which you have referred?

A. I have done so.

R. D. Q. 139. The dotted line you have placed upon the material is located between $\frac{1}{16}$ and $\frac{1}{8}$ of an inch from the raw edge of the material at the back of the pleat in strip No. 3, is it not?

A. It is.

R. D. Q. 140. The method of fastening the bosom to the shirt body then practised in making the shirts referred to by you consisted in the first step or line of stitching shown on the opposite side of No. 3,

549 where the raw edge of material is turned in and the folded edge remaining is stitched or felled down by a second row of stitching, your practice being to afterwards stitch down the folded edge of the pleat upon the shirt body, was it?

A. My method was two ways. I stated before that No. 1 and No. 3 represented the styles of puffed bosoms manufactured by me. What we mostly used for shirts was style No. 1 or "*o*," and these we fastened to the body by one row of stitching on the outer edge of the binding; but we also used style No. 3 sometimes for shirts, and we fastened them to the body first by one line or a row of stitching, as indicated on the single ply, and then stitched them down on the outer edge of the binding, as described before.

R. D. Q. 141. Where the method was like that shown in strip No. 1 or "*o*," was the body cut out or left under the bosom?

A. It was invariably cut out under both methods.

R. D. Q. 142. How was the body laid with reference to the two edges or sides of the bosom in the case of bosoms like No. 1 or "*o*," and how was it secured?

A. I think that pertains to the making of the shirt, but it can

only be done by putting the bosom on top of the body and stitching it down.

R. D. Q. 143. With or without folding the edge of the body; what practice did you adopt?

A. Without any further folding of any kind. This refers to No. 1.

R. D. Q. 144. I cut from the outer edge of the piece of material which represents the body in strip No. 2 or "*oo*," and ask you to apply the piece of material so cut off to the edge of the bosom No. 1 in the way just described; then pin it in position and represent the line of stitching by which it was secured by dotted ink lines on opposite sides of the shirt bosom and body.

A. I have done so.

R. D. Q. 145. Please draw ink lines across the edges, so as to indicate the position of the parts.

550 A. I have done so, making three lines across the edge on both sides.

R. D. Q. 146. Please write your name on each of these strips for the purpose of identification.

A. I have done so.

R. D. Q. 147. In the case of the method of fastening the bosom to the shirt body illustrated by you in strip No. 3 which way did the two raw edges of the material of the body and the bosom lie in the completed article, inward or outward?

A. They were turned inward, so as to be invisible.

R. D. Q. 148. Do you say that in making these puffed fronts and puffed-bosom shirts, as to which you have testified, you did not employ the method of folding the material and securing the parts together shown on the right-hand side of strip No. 2, when holding the strip so that the letters "*oo*" are on the upper side of the same? Please examine the strip carefully before you answer the question.

A. I say so. I did not employ this method.

Solicitor for complainants here offers in evidence on behalf of complainants the three strips Nos. 1, 2, and 3, and the same are marked Complainants' Exhibit Ballin Strips Nos. 1, 2, and 3 respectively, of this date.

Recross-examination:

R. X Q. 149. Was the binding of the bosom inquired of and manufactured by you at each of the extreme ends thereof of the width as represented in the three samples produced here to-day by complainants' solicitor?

A. I stated before to solicitor for complainants that the binding was generally narrow, but it varied according to the quality of the article. It was sometimes very narrow—not more than half an inch—but it had also sometimes the width as shown in these exhibits.

551 R. X Q. 150. Did this binding cover the raw edges of the bosom so as to leave no space within the binding whereby the said raw edges might unravel?

A. That depended on the quality of the goods manufactured. On

the better qualities no raw edge could unravel, because the raw edges were inside and covered by the binding. On the inferior goods the raw edges were visible underneath the bosom.

R. X Q. 151. Please look at Defendants' Exhibit X, Borchardt Shirt, and state if the puffed bosoms you manufactured and to which your attention has been called to-day before they were attached to the body of the shirt were like this exhibit, having particular reference to the extreme bounded part of said bosom and which afterwards is attached to the body of the shirt.

A. There is this difference, that the binding in Exhibit X is stitched on the body simultaneously with the bosom, whereas in my method the binding was first stitched on the bosom and then on the shirt.

R. X Q. 152. After the binding was put on the bosoms of your shirts did they have the same appearance as this binding on Exhibit X to which I have called your attention?

A. Yes; it had the same appearance, with this exception: that the outside binding was a little wider than the centre binding.

R. X Q. 153. And after the bosom so bounded was attached to the body of the shirt did it have the same appearance as in this Exhibit X?

A. Yes; it had the same appearance in reference to the stitching—that is, it had two rows of stitching.

R. X Q. 154. And as to that part of the binding by means whereof the bosom and body were stitched together?

A. It had the same appearance. The outer binding was a little wider than in this Exhibit X.

552 R. X Q. 155. In these fine shirts to which you have had reference was the outer binding brought up close in contact with the raw edges of the bosom and stitched thereon so as to leave no room or space for the said raw edges to unravel?

A. In the fine shirts they were not; it was in the common shirts where the raw edges of the bosom came up close to the binding.

R. X Q. 156. After the bosom was completed did it have any raw edges?

A. If it was made like Exhibit Ballin Strip No. 1 it had not; if it was made like Complainants' Exhibit Ballin Strip No. 3 it had. We made them both ways.

R. X Q. 157. I ask you to take this paper and a pair of scissors and cut and put in complete shape or form a representation of a bosom with the binding attached and then such bound bosom attached as to show its appearance on the body of the shirt, indicating the appearance of the different seams by means of dotted lines.

A. I have done so and have affixed my name to the same.

The same is offered in evidence and marked Defendants' Exhibit Ballin Model, of this date.

JACOB BALLIN.

The witness fee is paid to the witness by the complainants' solicitor.

Adjourned to Friday, January 14th, 1887, at 10 a. m.

553 NEW YORK, *January 14th*, 1887—10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

At 11.15 a. m. the witness Ballin had not appeared. Solicitor for complainants states that the witness promised to be here promptly at 10 a. m., and, as the record shows, was paid his witness fee before leaving the room on yesterday's meeting. In view of this fact and of the constant habit of the witness in thus delaying the examination and in every way obstructing the same an application to the court for an attachment to punish him for contempt will be made as speedily as possible.

Solicitor for complainants also hereby notifies the solicitor for defendants here present that on the next motion day, basing the motion on the record herein, he will ask the court for a further extension of time for taking and completing the testimony on behalf of complainants herein, and requests an adjournment of this examination until 9.30 a. m. Monday, January 17th, 1887.

Adjourned to Monday, January 17th, 1887, at 9.30 a. m.

554 *Notice of Taking Testimony.*

United States Circuit Court, Southern District of New York.

GEO. B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

SIR: Please take notice that we shall proceed to take proofs in rebuttal for final hearing on the part of the complainants in the above-entitled suit, under the 67th rule in equity, before Edward S. Berrall, notary public, special examiner by consent herein, at his office, 115 Broadway, New York, on Friday, January 14, 1887, at 2 o'clock p. m. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day at such time and place and without further notice.

Dated New York, January 14, 1887.

JAMES A. SKILTON,
Solicitor for Complainants.

To David Tim, Esq., solicitor for defendants.

555 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.*
} In Equity.

Testimony in rebuttal taken on the part of complainants, under and pursuant to notice, before Edward S. Berrall, notary public, special examiner by consent herein, at his office, No. 115 Broadway, New York, on Friday, January 14, 1887, at 2 o'clock p. m.

Present: James A. Skilton, Esq., solicitor for complainants, and David Tim, Esq., solicitor for defendants.

Solicitor for complainants offers in evidence on behalf of complainants the following patents, sketches, models, &c.:

1. U. S. letters patent No. 65596, granted to G. B. Perkins June 11, 1867, for invention in shirt bosoms, and the same is marked Complainants' Exhibit Perkins Patent, No. 65596, E. S. B., Sp. Ex., January 14, 1887.

2. U. S. letters patent No. 145,414, granted to S. S. Gray December 9, 1873, and the same is marked Complainants' Exhibit Gray Patent, No. 145,414, E. S. B., Sp. Ex., January 14, 1887.

3. U. S. letters patent No. 161,286, granted to A. Sinz-
556 heimer March 23, 1875, and the same is marked Complainants' Exhibit Sinzheimer Patent, No. 161,286, E. S. B., Sp. Ex., January 14, 1887.

Counsel for defendants objects to the introduction of the foregoing on the grounds that the same is immaterial, irrelevant, incompetent, and improper.

The solicitor for defendants waives certification of the three letters patent above introduced, and also of all other patents introduced in evidence on behalf of complainants, and accepts the Patent Office copies made exhibits as true copies of the several letters patent of which they purport to be the specifications and drawings, with full force and effect, as competent evidence on behalf of complainants.

Solicitor for complainants makes the same stipulation as to the English and the American patents put in evidence in the form of uncertified printed copies of specifications and drawings on behalf of defendants herein.

These stipulations and agreements, both of them, to apply to both the Mack and the Claflin cases, and the evidence now being taken in the Mack case being understood and agreed as being also taken in the Claflin case and usable as competent evidence therein under the stipulation heretofore made between the solicitors for the respective parties.

Solicitor for complainants proceeds with the introduction of exhibit evidence as follows:

4. The two sketches marked by the notary as Steitz Sketches
557 1 and 2—see pages 54 and 56 of defendants' printed record—and in the absence of the original Steitz Sketches referred to, which the defendants' solicitor is here asked to produce for identifi-

cation and to be marked, the solicitor for complainants offers a pencil sketch of the original sketches for identification and to be marked as an exhibit as follows: Complainants' Exhibit Steitz Sketches (copy) No. 1 and No. 2, E. S. B., Sp. Ex., January 14, 1887. (Original put in evidence later, pages 550–'1.)

Objected to on the ground that these are copies and the originals must and can be produced.

5. The Bloch paper model signed by Jacob Bloch December 10, 1885, and bearing also the signature of John W. Barron, N. P., 12, 10, '85, and the same is marked Complainants' Exhibit Bloch Paper Model, E. S. B., Sp. Ex., January 14, 1887.

(This model is referred to on page 66 of defendants' printed record.)

6. Alexander Sinzheimer's Sketch, Dec. 10, 1885, embracing six figures and including "Sketch 2"—see defendants' printed record, page 74—and the same is marked Complainants' Exhibit Sinzheimer Sketches 1 to 6, E. S. B., Sp. Ex., January 14, 1887.

7. The Borchardt Sketches A, B, C, and D, referred to on pages 117 and 118 of defendants' printed record, and the same is marked Complainants' Exhibit Borchardt Sketches A, B, C, and D, E. S. B., Sp. Ex., January 14, 1887.

558 8. The No. 1 Ballin Sketch, referred to on page 123 of defendants' printed record, folio 368, and the same is marked Complainants' Exhibit Ballin Sketch No. 1, E. S. B., Sp. Ex., January 14, 1887.

9. The Ballin Sketch No. 2, referred to on page 124 of defendants' printed record, folio 370, and the same is marked Complainants' Exhibit Ballin Sketch No. 2, E. S. B., Sp. Ex., January 14, 1887.

10. The Ballin Sketch No. 3, referred to on page 126 of defendants' printed record, folio 376, and the same is marked Complainants' Exhibit Ballin Sketch No. 3, E. S. B., Sp. Ex., January 14, 1887.

11. The Van Beuren Model No. 3, referred to on page 245 of defendants' printed record, folio 733, and the same is marked Complainants' Exhibit Van Beuren Model No. 3, E. S. B., Sp. Ex., January 14, 1887.

12. The Hagan Sketch No. 1, referred to in defendants' printed record on page 308, folio 923, and the same is marked Complainants' Exhibit Hagan Sketch No. 1, E. S. B., Sp. Ex., January 14, 1887.

13. The cuff referred to on page 309 of defendants' printed record, folio 926, and the same is marked Complainants' Exhibit Hagan Cuff No. 1, E. S. B., Sp. Ex., January 14, 1887.

14. The sample marked Henry C. Spriegel Corded Strip,
559 referred to on page 69, folio 205, of complainants' printed record, and the same is marked Complainants' Exhibit Henry C. Spriegel Corded Strip, May 27, 1886, E. S. B., Sp. Ex., January 14, 1887.

15. The Spriegel Model No. 1, referred to on page 70, folio 210, of complainants' printed record, and the same is marked Complain-

ants' Exhibit Spriegel Model No. 1, New York, May 27, 1886, E. S. B., Sp. Ex., January 14, 1887.

16. The Spriegel Corded Box Pleat referred to on page 73, folio 217, of complainants' printed record, and the same is marked Complainants' Exhibit Spriegel Corded Box Pleat, New York, May 27, 1886, E. S. B., Sp. Ex., January 14, 1887.

The solicitor for defendants is requested to produce the Bach model referred to on page 94, folio 280, of complainants' printed record, for identification and for other purposes. (See p. 551.)

Adjourned at 3.35 p. m. to Saturday, January 15, 1887, at 10 o'clock a. m.

NEW YORK, *January* 15, 1887.

Met pursuant to adjournment, and recess taken until 12.30 p. m.

After Recess.

12.30 P. M.

Present: Same parties.

Solicitor for complainants offers in evidence on behalf of
560 complainants all the numbers of a publication called the "Men's Furnishing Trade Review" in the earlier numbers and the "Furnishing Goods Trade Review" in the latter numbers, from No. 1, vol. 1, published February, 1878, to No. 6, vol. 5, published December, 1880, thirty-four numbers in all, and the same are marked Complainants' Exhibits The Men's Furnishing Trade Review, E. S. B., Sp. Ex., January 15, 1887.

Counsel for defendants objects to the introduction of these exhibits on the ground that they are immaterial, irrelevant, incompetent, improper, and not properly proven.

CHARLES CLUCAS, a witness produced on behalf of the complainants, being duly sworn, deposes and says:

Q. 1. Are you the gentleman of the same name who testified in the case of Cluett against Claflin?

A. Yes.

Q. 2. I call your attention to the thirty-four numbers of the publication entitled in the beginning as the "Men's Furnishing Trade Review" and later on as "The Furnishing Goods Trade Review," from vol. 1, No. 1, to No. 6, vol. 5, and I ask you what these various numbers are, if you know.

Objected to as immaterial, irrelevant, incompetent, and improper.

A. It is a publication of which I am editor and proprietor, and it is published in the city of New York.

Q. 3. I call your attention to the several advertisements
361 containing the name of Geo. B. Cluett, Bro. & Co. in these thirty-four numbers. Whose advertisements are those with which that name is associated in these thirty-four numbers?

Objected to on the same grounds, and that the paper speaks for itself.

A. Geo. B. Cluett, Bro. & Co., of Troy, New York.

Q. 4. Were these advertisements of Geo. B. Cluett, Bro. & Co. published and sent out to your subscribers at the time when they bear date respectively?

Objected to on the same grounds.

A. They were.

Q. 5. Have you at this time your list of subscribers prior to the year 1880?

Objected to on the same grounds.

A. I don't think we have; probably not. I am sure we have not.

Q. 6. Do you recall the name of any subscriber to your "Review" in the village of Chatham, Columbia Co.?

Objected to on the same grounds.

A. No; I do not.

Q. 7. Have you been connected with this publication, the "Men's Furnishing Trade Review," from its beginning down to this time?

Objected to on the same grounds.

A. I have.

Q. 8. Are you familiar with the trade publications of the city of New York; and, if yea, how long have you been familiar with them?

Objected to on the same grounds.

562 A. I am, and for ten years.

Q. 9. During the past ten years has there been any trade review published in the city of New York called "The Gent's Furnishing Trade Review"?

Objected to on the same grounds.

A. No.

Q. 10. How does it happen that there are only thirty-four numbers of your "Trade Review"—thirty-four separate issues—between February, 1878, and December, 1880?

Objected to on the same grounds.

A. Because in October, 1878, we issued a double number for both October and November—Nos. 9 and 10, volume 1. The reason of this is explained on the first page of the Review. It is very clear to me that if Mr. Clark testified that he saw anything in a publication known as "The Gent's Furnishing Review" he simply miscalled the name of my publication—"The Men's Furnishing Trade Review," using the word "gent's" instead of "men's."

Solicitor for complainants states that the last sentence of the last answer was originally made as a remark by the witness in general conversation and not in response to the question. Whereupon defendants' solicitor insisted on having it recorded as a part of his answer as above.

Q. 11. What was the reason for changing the name of the Review?

Objected to on the same grounds.

A. Because we thought it was advisable to broaden its scope.

563 Q. 12. In the beginning it was limited to men's furnishing goods, I suppose?

Objected to on the same grounds.

A. Yes.

No cross-examination.

CHAS. CLUCAS.

Sworn to before me this 15th day of January, 1887.

EDWARD S. BERRALL,

[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

Solicitor for defendants objects to the testimony of this witness and here gives notice that at the usual time and place he will make a motion to strike the same from the record.

Solicitor for complainants here offers in evidence on behalf of complainants a shirt which is marked Complainants' Exhibit Old Shirt No. 1, E. S. B., Sp. Ex., January 15, 1887.

Defendants' counsel objects to the introduction of the said shirt as incompetent, immaterial, irrelevant, improper, and that it has not been shown for what purpose it has been introduced or to whom the shirt belongs or by whom manufactured.

Solicitor for defendants here produces the original of the Steitz Sketches No. 1 and No. 2, referred to on pp. 54 and 56 of Defendants' Printed Record, and solicitor for complainants offers the same

564 in evidence on behalf of complainants and the same is marked Complainants' Exhibit Steitz Sketches (Original) No. 1 and No. 2, E. S. B., Sp. Ex., January 15, 1887.

Adjourned at 1.45 p. m. to Monday, January 17, 1887, at 9 o'clock a. m.

(Before Timothy Griffith, special examiner.)

NEW YORK, *January* 17, 1887—9.30 a. m.

Met pursuant to adjournment.

Present: Counsel as before for the complainants and defendants.

A recess is taken till 11 a. m.

After Recess.

Counsel for defendants offers in evidence a model made by Anna E. Bach on September 9, 1886 (see Complainants' Printed Record, page 94, folio 280), and the same is marked Defendants' Exhibit Bach Model, Jan'y 17, '87, T. G., Ex'r.

Solicitor for complainants states that the witness, Jacob Ballin, has been again subpœnaed to appear and testify in this case at 11.15

a. m.; that it is now 11.56 a. m.; that the examination has been delayed up to this time, waiting his appearance, and notice is here given to solicitor for defendants that motion will be made at the proper time to strike out the cross-examination, both questions and answers, of this witness, and for such action as may be proper in the premises. Solicitor for complainants at 12 o'clock m. asks for a recess until 2 p. m. this day.

Recess taken accordingly.

565 *After Recess.*

2 P. M.

Solicitor for complainants asks the examiner to certify this record to the court for the use of the court in proceedings for the attachment of the witness, Jacob Ballin, for contempt in refusing to appear to testify herein when duly subpœnaed and paid his witness fees and mileage.

TIMOTHY GRIFFITH, *Examiner.*

Solicitor for complainants states that on presenting the matter of the issue of an attachment of the witness Ballin to Judge Shipman at 3 o'clock p. m. he stated that he could not suspend a trial to listen to such a motion, and on being informed that complainants' time expired to-day, and that complainants' solicitor was compelled to leave town, stated that he would grant an extension of time for taking testimony for those reasons.

Counsel for defendants states that Judge Shipman did not say that he would extend the time, and he now gives notice to solicitor for complainants that defendants' counsel will remain in court until Judge Shipman is at leisure to oppose any motion made for an extension of time on the part of complainants.

Solicitor for complainants submits the order of Judge Shipman extending the time for taking the testimony of the witness, Jacob Ballin, for two days, and makes the same a part of this record.

By consent of solicitors for both sides the adjournment herein when taken shall be made to Friday, January 21st, 1887,
566 at 11 a. m., as the first of the two days allowed for the examination of Ballin.

Solicitor for complainants offers in evidence on behalf of the complainants the sample bosoms heretofore marked for identification (see Complainants' Printed Record, page 280, folio 838), as referred to in the license to Herrmann, Aukam & Co., and the same are marked Complainants' Exhibits Herrmann, Aukam & Co. Sample Bosoms, of this date.

United States Circuit Court, Southern District of New York.

GEO. B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

On hearing the statements and arguments of J. A. Skilton on be-

half of complainants and David Tim on behalf of defendants and on consideration of the record herein before Timothy Griffith, Esq., duly certified to the court—

It is hereby ordered that the complainants shall have two days' further time for the examination of Jacob Ballin on behalf of complainants herein on rebuttal.

New York, January 17th, 1887.

N. SHIPMAN, *Judge.*

Adjourned to Friday, Jan'y 21st, 1887, at 11 a. m.

567 NEW YORK, *Jan'y 21st*, 1887—11 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

The witness Ballin appears at 11.15.

Re-redirect examination by Mr. SKILTON:

R. R. D. Q. 158. Please take a piece of paper and give me a sketch of full size showing a sectional view of the puffed shirt bosom, including the adjacent part of the shirt body as manufactured by you in 1867, 1868, and 1869, and showing all the parts in their proper relation to each other.

Mr. Tim, counsel for defendants, appears at 11.23.

Witness asks if the solicitor for defendants better not hear that question.

Question objected to on the ground that this has been thoroughly gone into by solicitor for complainants heretofore in the examination of this witness.

A. Here is the sectional view.

Solicitor for complainants offers the sketch made by the witness in evidence on behalf of the complainants, and the same is marked Complainants' Exhibit Ballin's Sketch No. 4, January 21, '87, T. G., Ex'r.

R. R. D. Q. 159. How much of the bosoms have you represented in this sketch No. 4?

A. One-half.

R. R. D. Q. 160. Apparently you have not located the lines of stitching necessary to secure the parts together. Please make me another sketch representing the complete bosom in sectional view, adjacent parts of the shirt body, and the lines of stitch-

568 ing, all in the relations and of the proportions and locations as they were in the shirts made, as testified by you, in 1867, 1868, and 1869.

A. I can't represent a line of stitching on a sectional view. I can on a superficial view.

R. R. D. Q. 161. I will accept the sketch called for in the last question, in which the several lines of stitching may be represented by a line or lines drawn across the lines of the sectional view properly located at right angles with the lines of the sectional view and marked as representing the location of the lines of stitching.

A. I have done so.

R. R. D. Q. 162. Please identify on the sketch the different parts of the bosom.

A. I have done so, showing two ways in which the bosom of the shirt is attached to the body—one with one seam and one with two seams. The line representing the middle or centre binding has not always been used. It was only put there for show.

Solicitor for complainants offers this last sketch in evidence on behalf of complainants, and the same is marked Complainants' Exhibit Ballin's Sketch No. 5, January 21, '87, T. G., Ex'r.

R. R. D. Q. 163. Why do you call that piece, represented in the sketch as located in the centre of the puffing, a "binding"?

A. Because I know no other name for it.

R. R. D. Q. 164. Is it, in fact, a binding and properly so called?

A. I should think the side band was more of a binding than that piece.

Answer objected to as irresponsive and volunteered.

R. R. D. Q. 165. Question repeated.

A. I call it a binding, but not properly so, as it binds nothing.

569 R. R. D. Q. 166. In these Ballin sketches Nos. 4 and 5 have you represented the various parts of the shirt bosom in their proper proportions and proper relations to each other, as true representations of the puffed shirts and shirt bosoms made and sold by you in 1867, 1868, and 1869?

A. I did, as well as my crude knowledge of drawing would permit me.

R. R. D. Q. 167. Looking at these two sketches, 4 and 5, as they are now completed, what difference do you find, if any, between the parts (all of them) as represented in the sketches and the actual parts as they were in these shirts as to size and relative proportions?

A. They are not much out of the way, but they varied particularly in the side binding, which was sometimes narrow and sometimes wide, according to fancy or to the price of the shirt.

R. R. D. Q. 168. In other respects, then, as I understand you, the two sketches correctly represent the relations, proportions, and locations of the parts as they were in these shirts?

A. Yes.

R. R. D. Q. 169. Did these shirts made by you in 1867, 1868, and 1869 have any other lines of stitches besides those represented in these two sketches in, about, or through the bosom, or the bosom and the body of the shirt?

A. It had a line or lines of sewing through the puffing to create the puffing. I wish to say that it had lines of sewing through the puffing.

R. R. D. Q. 170. Through the puffing alone?

A. Yes.

R. R. D. Q. 171 Where located and how many?

A. On each end of the puffing and sometimes one in the centre.

R. R. D. Q. 172. What was the object of these lines of stitching through the puffing?

A. To make the puffing.

570 R. R. D. Q. 173. Please mark in red ink the location of the lines of stitching as they were put through the puffing, in or on Ballin's sketch No. 5, as described by you.

A. I could not do that intelligently, because the red-ink marks would obliterate the writing. The puffing itself had nothing to do with the strips or binding on the bosom, particularly as the binding was used on other styles of bosoms besides the puffed bosoms, puffed bosoms only representing a certain style of bosom.

All of the foregoing answer after the first sentence objected to as irresponsive and volunteered.

R. R. D. Q. 174. Then please make a new sketch and represent these lines of stitching through the puffing, as they were located in these shirts and all of them.

A. I ask to see a sample of puffed bosoms, which is in evidence, to aid me in making that sketch.

R. R. D. Q. 175. I prefer to have you make this sketch from and depending upon your memory as to the facts of the matter. Please do so.

A. I can state the facts of the matter, but I can't make a sketch of puffing.

R. R. D. Q. 176. What I want is simply a sectional view representing the same parts as shown in Ballin's sketches 4 and 5, with the lines of stitching properly located and indicated by vertical lines as they were placed to make the puffing in those shirts.

Objected to on the ground that the witness has already made the desired sketch, and that counsel has not the right to harass and annoy the witness by the repetition of the same matter over and over again, as has been repeatedly done with this witness.

571 A. I can't make it understandingly. I can't represent puffing by sectional view.

R. R. D. Q. 177. Please represent the puffing just as you have done in Ballin's sketches 4 and 5—that is, by a straight line—and locate thereon the lines of stitching making the puffing, so that we may know where they belong on the other sketch.

Same objection.

A. I have done so.

Solicitor for complainants offers the sketch in evidence on behalf of the complainants, and it is marked Complainants' Exhibit Ballin's Sketch No. 6, January 1, '87, T. G., Ex'r.

R. R. D. Q. 178. As I understand you, then, the lines of stitching represented in sketch No. 6 pass through the puffing substantially in the same location as the lines of stitching represented on each side of the puffing in sketch No. 5, and passing through the centre pleat and what you call the side binding?

A. The fact is that these lines of stitching ran through the linen to create the puffing, and only for that purpose.

R. R. D. Q. 179. What I want to know is where those lines of stitching were located with reference to the two lines of stitching shown in sketch No. 5, one of them passing through the centre pleat, the puffing, and the folded edge of the centre pleat on the other side, and the other passing through what you call the side binding in the same manner, and the puffing included between the folded edges of that part which you call the side binding. Will you state the location?

A. The question is rather dumfounding. I stated distinctly before where this stitching is located, and I repeat the same answer.

572 R. R. D. Q. 180. In what answer did you make that statement?

A. Some previous answer and on the sketch.

R. R. D. Q. 181. Do you refuse to give any other or further answer?

A. I have made a distinct answer before, and it ought to be enough. I can't answer any more distinctly.

R. R. D. Q. 182. In sketch No. 6 you have represented two lines of stitching, which, as I understood, are employed to make the puffing and passing through each edge of the same alone or only for that purpose. In sketch No. 5 you have, as I understand the sketch, represented two lines of stitching as passing through the puffing, but as also passing through on one side the centre pleat and on the other side the "side binding," the object of which is to secure these three parts together. Are the lines of stitching represented in the former sketch the same lines of stitching as those shown in sketch No. 5 or are they different lines of stitching?

A. It would be only repeating my previous answers in giving an answer again. It states on the sketch marked No. 6 "line of sewing required to make the puffing." It states on sketch No. 5, or at least I have so testified, that the stitchings on sketch No. 5 were required to bind the puffing. Consequently the two different stitchings are entirely independent of each other and one has nothing to do with the other.

R. R. D. Q. 183. Then these lines of stitching through the puffing, as shown in sketch No. 6, are made and the puffing is made complete before the centre pleat and the "side binding" are secured to the puffing, are they not?

A. Yes.

R. R. D. Q. 184. Then, in fact, the puffing has four lines of stitching, two on each side or edge of the same, has it not?

573 A. Sometimes it had more. It had at least four and sometimes more when the puffing was caught by the outer stitching of the binding. Sometimes it had less than four when the puffing was folded by machinery.

R. R. D. Q. 185. Was the puffing an article of trade that you bought or did you make the puffing for these bosoms?

A. I made puffing and I bought some puffing.

At 1.15 p. m. adjourned to 2.15 p. m.

Mr. Skilton, solicitor for complainants, appeared pursuant to recess; Mr. Tim, solicitor for defendants, appeared at 2.40 p. m., and at 3 p. m. witness appears, and examination resumed.

R. R. D. Q. 186. Were the lines of stitching shown on each edge of the puffing in Ballin's sketch No. 6 covered on one side by the centre pleat and on the other side by "side binding" when the bosom was completed in the shirts you made in 1867, 1868, and 1869?

A. I don't remember.

R. R. D. Q. 187. Do you remember that they were not?

A. I do not remember.

R. R. D. Q. 188. Do you remember that they were covered in any case?

A. I don't remember.

R. R. D. Q. 189. In answer to R. X Q. 149 you said, "I stated before to solicitor for complainants that the binding was generally narrow." When did you make such a statement to solicitor for complainants?

A. I don't keep a record of my answers. I don't know.

574 R. R. D. Q. 190. Do you mean to say that you made such an answer upon the record?

A. No; I don't mean to say that.

R. R. D. Q. 191. At what time during the examination did you ever make such a statement?

A. I answered that question before.

R. R. D. Q. 192. Please answer it again.

A. I don't keep a record of my answers. I don't know.

R. R. D. Q. 193. Haven't you stated in your testimony herein that what you call the "side binding" pieces in the shirts made by you in 1867, 1868, and 1869 were more than an inch wide?

A. I don't remember.

R. R. D. Q. 194. If you have so stated, was the statement true?

A. It was true in part as far as that width of the side binding is concerned.

R. R. D. Q. 195. Can you name any parties to whom you sold puffed bosom shirts in 1867, 1868, or 1869 in which the "side binding" was as narrow as one-half inch in width, or as narrow as the "side binding" shown in Defendants' Exhibit Ballin Model, January 13th, 1887?

A. I have no record of the width of the side binding of the shirts which we manufactured then, and therefore could not name such parties.

R. R. D. Q. 196. Can you give the names of any accessible party or parties who either made as operators, who laundered, who used, or who ever saw or wore any of these shirts with such "side binding"—I mean such narrow "side binding"?

A. I cannot.

R. R. D. Q. 197. You say in answer to R. X Q. 155 "it was in the common shirts where the raw edges of the bosom came up

close to the binding." Can you give the name of any accessible person who made or worked on shirts so made, who laundered, who used, or who ever saw, wore, or purchased any shirts made as stated in the above quotation?

575 A. No.

R. R. D. Q. 198. You have stated that you sometimes bought the puffing and sometimes made it. What was the process or method of making it followed by you?

Objected to as immaterial, irrelevant, incompetent, and improper.

A. It is so long since, I have forgotten all about it. In fact, I could not describe it as well as an operator could.

R. R. D. Q. 199. Give us a general idea of it.

A. I can't give a general idea of it.

R. R. D. Q. 200. Was the puffing done by machinery or by hand?

A. It was done both ways.

R. R. D. Q. 201. When it was done by machinery by what machine or machinery was it done?

A. It was done by different makes of machinery.

R. R. D. Q. 202. Name them.

A. I am not certain which was the best one. I understood that all the manufacturers of sewing-machines claim to have made puffing; each one claimed and claims that for its machine—that it can do puffing.

R. R. D. Q. 203. Did they so claim at that time—in 1867, 1868, and 1869?

A. I think so.

R. R. D. Q. 204. What machine did you use in those years and in making shirts and in making puffing?

A. I don't remember.

R. R. D. Q. 205. Did you use any sewing-machines in those years—1867, 1868, and 1869?

A. I did.

R. R. D. Q. 206. Can't you tell whose machines?

A. We had different makes.

R. R. D. Q. 207. Name them.

A. I don't remember.

576 R. R. D. Q. 208. How many sewing-machines did you use at that time?

A. I could not tell.

R. R. D. Q. 209. Please describe the puffing that you bought for these shirts.

A. It was mostly puffing made of white muslin.

R. R. D. Q. 210. Please make a sectional view of the puffing as you bought it.

A. I can't do it.

R. R. D. Q. 211. How many pieces of material would be represented in a sectional view of it?

A. I forget that. I could not describe it any nearer.

R. R. D. Q. 212. Was there any material in any form, either in the form of binding or in the form of a strip, attached to either edge

of the puffing or did you buy the puffing pure and simple and alone?

A. I don't remember, but I think we bought it both ways. I can't state exactly how we bought it.

R. R. D. Q. 213. Who did you buy it of?

A. Of a manufacturer.

R. R. D. Q. 214. Give his name.

A. I forget it.

R. R. D. Q. 215. Where did he live and where did he do business?

A. He lived in New York and done business in New York, in Wooster street. I think he is dead.

R. R. D. Q. 216. What was his name?

A. I forget.

R. R. D. Q. 217. Where was his place of business located?

A. I don't know. I am not even sure that it was in Wooster street.

R. R. D. Q. 218. Did he make a business of making puffing?

A. Yes, sir; puffing and ruffling.

R. R. D. Q. 219. Describe him.

A. Describe whom?

R. R. D. Q. 220. The manufacturer of the puffing you
577 bought?

A. What description do you want?

R. R. D. Q. 221. I want such a description as will enable me to identify the man.

A. Can't give it.

R. R. D. Q. 228. Of what nationality was he?

A. Of German nationality.

R. R. D. Q. 223. What part of Germany did he come from?

A. I don't know.

R. R. D. Q. 224. When did he die?

A. I don't know.

R. R. D. Q. 225. When did you begin to do business with him?

A. I don't know.

R. R. D. Q. 226. When did you stop doing business with him?

A. I don't know.

R. R. D. Q. 227. You mentioned a second person of whom you might have bought puffing. What was his name?

A. I forget.

R. R. D. Q. 228. Where was his place of business, where did he live, and what was his nationality?

A. His place of business, I think, was in 6th avenue, near Greenwich avenue. I don't know where he lived, and I don't know his nationality.

R. R. D. Q. 229. What number on 6th avenue?

A. I don't know the number.

R. R. D. Q. 230. In what building was it located?

A. So far as I remember it was in a brick building.

R. R. D. Q. 231. Please give the location of the building, and identify it.

A. I have done so in previous answers.

R. R. D. Q. 232. Please describe the operation of making this puffing and of finishing shirt bosoms practiced by you when you made the puffing yourself.

A. I can't describe this operation, for the reason that it was not done under my personal supervision.

R. R. D. Q. 233. Under whose personal supervision was it done?

578 A. Some woman's.

R. R. D. Q. 234. Please give her name.

A. I can't do it.

R. R. D. Q. 235. Don't you remember?

A. I don't remember.

R. R. D. Q. 236. What was your department in the business in 1867, 1868, and 1869?

A. I forget.

R. R. D. Q. 237. Did you have charge of the manufacturing then?

A. In a superficial way.

R. R D. Q. 238. What do you mean by superficial way?

A. General charge.

R. R. D. Q. 239. Were you ever in practical and direct charge of the manufacture of shirts?

A. Yes, sir.

R. R. D. Q. 240. When?

A. In the years 1854, '55, '56, '57, '58, '59, to '63; about that.

R. R. D. Q. 241. Did you have any sewing-machines or other machines for putting on strips of material on the edges of the puffing and for, at the same time, making the puffing without a preliminary line of stitching put through the edge of the puffing to hold the puffs before the strips of material were applied to the edges?

A. I don't remember whether we had.

R. R. D. Q. 242. In R. X Q. 157 you were asked to take paper and scissors and make the shape of a bosom, etc. Do you mean to say that Defendants' Exhibit Ballin Model is a correct representation and answer to that question?

A. That is a correct representation as far as that one style is concerned.

JACOB BALLIN.

Sworn to before me—

TIMOTHY GRIFFITH, *Examiner.*

Adjourned at 4.30 p. m. to Tuesday, January 25th, 1887, at 10.30 a. m.

579 NEW YORK, *January* 25, 1887—10.30 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Solicitor for complainants offers in evidence on behalf of complainants a written admission made on behalf of defendants in relation to Isaac H. Mambert, his letters patent No. 219,284, dated September 2, 1879, and his relations with the firm of Mack & Co., de-

fendants herein, and the same is marked Complainants' Exhibit Mambert-Mack Admission, January 25, 1887, T. G., Ex'r.

Adjourned subject to notice.

580 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
H. B. CLAFLIN *et al.*
} In Equity.

NEW YORK, *February* 17, 1887.

By consent the following letters, &c., are put in evidence on behalf of complainants herein, the defendants waiving their right of objection to the timeliness of the introduction of the same, but expressly reserving all other rights of objection whatsoever thereto by consent of complainants:

1. The originals of ten letters of Mack & Co., dated between July 8, 1885, and April 5, 1886, and the same are marked Complainants' Exhibit Ten Mack Letters, E. S. B., Sp. Ex., February 17, 1887.

2. Thirteen letters, being letter-press copies, addressed to Mack & Co. between July 7, 1885, and April 3, 1886, forming the corresponding parts of the correspondence of Mack & Co., and the same are marked Complainants' Exhibit Thirteen Skilton Letters, E. S. B., Sp. Ex., February 17, 1887.

3. A Mack & Co. dodger advertising Crown collars, and
581 the same is marked Complainants' Exhibit Mack & Co. Dodger No. 1, E. S. B., Sp. Ex., February 17, 1887.

4. A Mack & Co. dodger advertising the Government shirt as a bound-bosom shirt and admitted by the defendants to be distributed with the Government shirt sold by Mack & Co., and the same is marked Complainants' Exhibit Mack & Co. Dodger No. 2, E. S. B., Sp. Ex., February 17, 1887.

5. Three Mack & Co. envelopes, and the same are marked Complainants' Exhibit Three Mack & Co. Envelopes, E. S. B., Sp. Ex., February 17, 1887.

6. Two Mack & Co. labels, referred to in Mack letter of August 25, 1885, and attached thereto, and the same are marked Complainants' Exhibit Mack & Co. Labels, E. S. B., Sp. Ex., February 17, 1887.

7. Letter of Geo. B. Cluett, Bro. & Co. to James A. Skilton, dated August 22, 1885; also letter of Geo. B. Cluett, Bro. & Co. to Mack & Co., of the same date; also letter-press copy of letter of the same parties to the same parties as the last, dated August 25, 1885, and the same are marked Complainants' Exhibits Three Cluett-Skilton-Mack Letters, E. S. B., Sp. Ex., February 17, 1887.

8. Patent Office certified copy of letter of James A. Skilton, dated August 8, 1874, filed in an application of Robert Cluett for improvement in shirt bosoms August 10, 1874, and an office letter in
582 the same application of December 14, 1874, and the same is marked Complainants' Exhibit Skilton Misfiled Letter, E. S. B., Sp. Ex., February 17, 1887.

JAMES A. SKILTON, being duly sworn, makes the following statement:

The letters found among the foregoing exhibits purporting to be letters written by Mack & Co. to me were written by Mack & Co. and were received by me on or about the day subsequent to their respective dates. The letters put in evidence by letter-press copy and purporting to be letters addressed by me to Mack & Co. were written by me to Mack & Co., were mailed to that firm, and are the letters referred to and replied to in the letters of Mack & Co. above mentioned, as stated in the acknowledgments contained in the first clause of all or most of the Mack & Co. letters. The two labels printed in bronze and made exhibits are the labels referred to in the Mack letter relating thereto and in the letter of Cluett to Mack, of about the same date, referring to labels of that character. The Exhibit Mack & Co. Dodger No. 1 was before me and was the basis of my letter of July 7, 1885, and of the subsequent correspondence on the subject of the Crown trade-mark with Mack & Co., as contained in the correspondence found in these exhibits.

The Exhibit Mack & Co. Dodger No. 2 or a duplicate thereof was also before me, and was referred to in the correspondence relating to the bound bosom following this correspondence on the subject of the trade-mark, and also in one or more of the letters on both sides in that correspondence relating to trade-marks. The defendant Mack has, through his counsel, admitted in writing that duplicates
583 or copies of the dodger No. 2 were circulated by Mack & Co. and distributed to the trade with the "Government" shirts, one or more samples of which are found among the exhibits of complainants in this case.

JAMES A. SKILTON.

Sworn to before me this 18th day of February, 1887.

EDWARD S. BERRALL,
[SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

584 Cluett *vs.* Claflin. Complainants' Exhibit Complainants' Patent. Wm. H. B., Notary Public.

(See Complainants' Printed Record, page 63.)

DEPARTMEMT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Robert Cluett November 17th, 1874, number 156,880, for improvement in shirts.

In testimony whereof I, M. V. Montgomery, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this

17th day of March, in the year of our Lord one thousand
[SEAL.] eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

M. V. MONTGOMERY,
Commissioner.

585 No. 156,880.

The United States of America to all to whom these presents shall come:

Whereas Robert Cluett, of Troy, New York, has presented to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in shirts, a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such case made and provided; and

Whereas upon due examination made the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said Robert Cluett, his heirs or assigns, for the term of seventeen years from the seventeenth day of November, one thousand eight hundred and seventy-four, the exclusive right to make, use, and vend the said invention throughout the United States and the territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this seventeenth day of November, in the year of our Lord
[SEAL.] one thousand eight hundred and seventy-four, and of the Independence of the United States of America the ninety-ninth.

B. R. COWEN,
Acting Secretary of the Interior.

Countersigned:
J. M. THACHER,
Commissioner of Patents.

586 UNITED STATES PATENT OFFICE.

ROBERT CLUETT, of Troy, New York.

Improvement in Shirts.

Specification forming part of Letters Patent No. 156,880, dated November 17, 1874; application filed August 10, 1874.

To all whom it may concern:

Be it known that I, Robert Cluett, of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirt bosoms; and I do hereby declare that the following is a full, clear, and exact description thereof, which will enable others skilled in the art to which it pertains to

make and use the same, reference being had to the accompanying drawings and to the letters of reference marked thereon, which form a part of this specification.

The object of my invention is, first, to avoid the folding in of the edges of the bosom and the raw edges and loose threads thereof, which disfigure the bosom when so folded in; second, to stay the bosom, rendering it firmer in itself and less likely to rumple or break; third, to avoid wrinkling of the bosom by the unevenness or fulling up of any one of the layers composing the bosom in any part thereof, each and all of these three features having reference to the preparatory stages of manufacture, but to be completed in the bosom as attached to the shirt.

Its construction consists in preparing and fixing the two or more layers in place smoothly in relation to each other and then binding the edge with a folded strip of cloth like the bosom front, cut
587 bias (or diagonally) or straight from the piece, so as to turn the curves of the bosom without tendency to gather on one side, and so as to suit round, square, or any other shaped bosom, this binding extending entirely around the bosom (except at the neck and yoke) and holding the parts firmly in place by a line of stitches before the bosom is inserted in or placed on and attached to the body of the shirt, and finally attaching the bosom so prepared to the shirt body in the manner hereinafter shown. The invention consists in the shirt bosom or shirt and bosom so constructed and not in the bosom alone.

Where the bosom is inserted in the shirt a back layer of the bosom is left outside of the binding, and free. As to the rest, and where it is placed on and attached to the shirt body, the same is made through all—the binding on both sides and the layers of cloth between as well as the shirt body.

The drawing contains fourteen figures.

Figure 1 is a front view of the upper part of a shirt, in which the bosom proper is secured to and over the shirt-body front, as illustrated in the following figures, to and including Fig 7. Fig. 2 is a sectional view cut on the line U U. Fig. 3 is a sectional view cut on the line V V. Fig. 4 is a plan or pattern view of the shirt body shown in Fig. 1. Fig. 5 is a front view of the bosom before being secured to the body, as in Fig. 1. Fig. 6 is a sectional view cut on the line U U, Fig. 5; Fig. 7, the same on line V V, Fig. 5. Fig. 8 is a front view, in which the bosom proper is inserted in the shirt-body front, as illustrated in the remaining figures to Fig. 14, inclusive. Fig. 9 is a sectional view cut on the line X X, Fig. 8; Fig. 10 the same on line Y Y, Fig. 8. Fig. 11 is a plan or pattern view of the shirt body cut out for the insertion of the bosom. Fig. 12 is a front view of the bosom for insertion. Fig. 13 is a sectional view of the line X X, Fig. 12; Fig. 14, the same on the line Z Z, Fig. 12.

588 Figs. 5, 6, and 7 show one line of stitches passing through the bias or straight cut binding B″ and bosom layers B and L. In these, as in all the figures S′ indicates the location of a stitch and an inside line of stitching. This bosom is composed of two

layers and is secured on the shirt body F, as shown in Figs. 1, 2, and 3, by the outside line of stitches O.

Figs. 12, 13, and 14 show one line of stitches, S′, passing through the bias or straight cut binding B″ and bosom layers B and L, the back layer B′ not being stitched to the rest by such line of stitches.

Figs. 8, 9, 10, and 11 show how this form of bosom is inserted in the shirt body F—first, by a line of stitching attaching the back layer B′ to the shirt body F at the bend shown on the under side of Fig. 10; and, second, by the outside line of stitches, O, shown in Figs. 8, 9, and 10.

The bosoms so made have each layer evenly laid over the other and so held in place during the final process of insertion or attachment, as the case may be, and they remain equally even and smooth after the shirt and bosom are complete.

The thickness of cloth in the bosom may be varied, and either increased or reduced.

I claim as my invention—

1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding.

2. The shirt bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B″ and secured to the shirt front F by the line of stitching O.

In testimony that I claim the foregoing as my own invention I affix my signature in presence of two witnesses.

ROB'T CLUETT.

Witnesses:
R. C. BULL.
F. B. WEEKS.

589 Cluett *vs.* Claflin. Complainants' Exhibit Cluett Assignment. Wm. H. B., Notary Public.

(See Complainants' Printed Record, page 12.)

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of an instrument of writing executed by Robert Cluett June 28th, 1875, and recorded in Liber C 21, page 188. Said record has been carefully compared with the original and is a correct transcript thereof.

In testimony whereof I, M. V. Montgomery, Commissioner of Patents, have caused the seal of the Patent Office to be [SEAL.] affixed this 16th day of January, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

M. V. MONTGOMERY,
Commissioner.

Liber C 21, p. 188.

For and in consideration of one dollar to me in hand paid by George B. Cluett, Brother & Company, of Troy, N. Y., I hereby sell, assign, and transfer to the said George B. Cluett, Brother & Company all my right, title, and interest in and to the letters patent of the United States No. 156,880, dated November 17, 1874, and
590 granted to me, the same to be held and enjoyed by the said George B. Cluett, Brother & Company to the full end of the term for which said letters patent are granted as fully and entirely as the same would have been held and enjoyed by me if this assignment had not been made.

Witness my hand and seal this 28th day of June, 1875.

ROBERT CLUETT. [SEAL.]

Witnesses:
GEORGE D. BURRAGE.
FRED. HEHORS.

Recorded Dec. 23, 1874. Ex'd: H. M. H.; E. A. M.

Cluett *vs.* Claflin. Complainants' Exhibit Hutchinson, Pierce & Co. Agreement, Copy. Wm. H. B., Notary Public.

(See Complainants' Printed Record, page 62.)

Whereas letters patent of the United States No. 156,880 were granted unto Robert Cluett November 17th, 1874, for an invention known as the bound-bosom shirt, stated in the claims to be as follows:

1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding.

2. The shirt bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B″ and secured to the shirt front F by the line of stitching O.

Whereas we, Hutchinson, Pierce & Co., of No. 748 Broad-
591 way, N. Y., have examined the specification and drawing of such letters patent and have made and sold two several lots or orders of shirts claimed to contain said invention, as follows: One lot or order for H. A. Allen, of Albany, New York, consisting of three dozen shirts, and another lot of thirteen dozen for Richardson & Gertz, of Boston, Mass.:

Now, therefore, know all men by these presents that we, Hutchinson, Pierce & Co., and the several members of the firm, jointly and severally, concede, admit, and agree as follows:

1. That said two lots or orders of shirts, a sample of which is produced and made a part of this agreement, marked Exhibit A, and identified by the signature of the firm, do contain and embody the invention described and claimed in said letters patent.

2. That said letters patent are valid; that we, neither jointly nor severally, will hereafter make, use, or sell bosom shirts in which the bosom is bound on the edge by a binding extending around the bosom (except at the neck and yoke) during the lifetime of said letters patent, whether like Exhibit A or otherwise; that in case we

should hereafter so make, use, or sell shirts made with such binding we will not, either jointly or singly, contest the validity of said letters patent or the utility of said invention, but will always and now do hereby admit the same, and also the fact of our infringement of said letters patent in heretofore making and selling the above orders, as per Exhibit A, and in any and all bosom shirts that may be made like them by us or sold by us hereafter.

In witness whereof we have jointly and severally set our
592 hands and seals the 5th day of March, in the year one thousand eight hundred and eighty-five.

HUTCHINSON, PIERCE & CO. [L. S.]
H. B. PIERCE. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered in the presence of—
JAMES A. SKILTON.

In consideration of the foregoing concessions, admissions, and agreements I hereby release Messrs. Hutchinson, Pierce & Co., jointly and severally, from the payment of the royalty and damages due and owing to Robert Cluett or to Messrs. Geo. B. Cluett, Bro. & Co., his assignees, for said two infringements by the making and selling the two several orders for shirts above mentioned, consisting of not more than sixteen dozen shirts, and for no other infringements whatsoever heretofore committed, if any, this release not to be construed as giving any permission or license whatever to use said invention in future.

New York, March 5th, 1885.

JAMES A. SKILTON,
Attorney for Geo. B. Cluett, Bro. & Co.

216 B—3 dz.
H. A. Allen.

Richardson & Gertz,
13 H. dz.

Memorandum
Handed me by Mr. Pierce, of H., P. & Co., to-day, M'ch 5, 1885.
J. A. S.

593 Endorsed: Hutchinson, Pierce & Co. with Geo. B. Cluett, Bro. & Co. Agreement as to letters patent No. 156,880.

Cluett *vs.* Claflin. Complainants' Exhibit Richardson & Gertz Agreement, Copy. Wm. H. B., Notary Public.

(See Complainants' Printed Record, page 62.)

Whereas letters patent of the United States No. 156,880 were granted unto Robert Cluett November 17, 1874, for an invention known as the bound-bosom shirt, stated in the claims to be as follows:

1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding.

2. The shirt bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B″ and secured to the shirt front F by the line of stitching O.

Whereas we, Hutchinson, Pierce & Co., of No. 748 Broadway, N. Y., have examined the specification and drawing of such let-
594 ters patent and have made and sold two several lots or orders of shirts claimed to contain said invention, as follows: One lot or order for H. A. Allen, of Albany, New York, consisting of three dozen shirts, and another lot of thirteen dozen for Richardson & Gertz, of Boston, Mass.:

Now, therefore, know all men by these presents that we, Hutchinson, Pierce & Co., and the several members of the firm, jointly and severally, concede, admit, and agree as follows:

1. That said two lots or orders of shirts, a sample of which is produced and made a part of this agreement, marked Exhibit A, and identified by the signature of the firm, do contain and embody the invention described and claimed in said letters patent.

2. That said letters patent are valid; that we, neither jointly nor severally, will hereafter make, use, or sell bosom shirts in which the bosom is bound on the edge by a binding extending around the bosom (except at the neck and yoke) during the lifetime of said letters patent, whether like Exhibit A or otherwise; that in case we should hereafter so make, use, or sell shirts made with such binding we will not, either jointly or singly, contest the validity of said letters patent or the utility of said invention, but will always and now do hereby admit the same, and also the fact of our infringement of said letters patent in heretofore making and selling the above orders, as per Exhibit A, and in any and all bosom shirts that may be made like them by us or sold by us hereafter.

In witness whereof we have jointly and severally set our
595 hands and seals the 5th day of March, in the year one thousand eight hundred and eighty-five.

HUTCHINSON, PIERCE & CO. [L. S.]
H. B. PIERCE. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered in the presence of—

JAMES A. SKILTON.

In consideration of the foregoing concession, admission, and agreements I hereby release Messrs. Hutchinson, Pierce & Co. jointly, and severally, from the payment of the royalty and damages due and owing to Robert Cluett or to Messrs. Geo. B. Cluett, Bro. & Co., his assignees, for said two infringements by the making and selling the two several orders for shirts above mentioned, consisting of not more than sixteen dozen shirts, and for no other infringements whatsoever heretofore committed, it any, this release not to be construed as

giving any permission or license whatever to use said invention in future.

New York, March 5th, 1885.

JAMES A. SKILTON,
Attorney for Geo. B. Cluett & Co.

We, Richardson and Gertz, a firm doing business at No. 385 Washington street, in the city of Boston, county of Suffolk, State of Massachusetts, having read the foregoing, which purports to be a copy of an agreement entered into by and between Messrs. Hutchinson, Pierce & Co. and James A. Skilton, as the attorney of Messrs. Geo. B. Cluett, Bro. & Co., of the city of Troy, county of Rensselaer and State of New York, in part in relation to the infringement of letters patent of the United States No. 156,880, dated Nov.
596 17, 1874, and granted unto Robert Cluett, of the same place, by the manufacture of the said thirteen dozen shirts for our firm by said Hutchinson, Pierce & Co., which we admit, hereby jointly and severally agree to accept and adopt, and do hereby accept and adopt, the same as also binding in every respect, and as to all the concessions, admissions, promises, and agreements therein contained, upon ourselves jointly and singly, except as to the manufacture and sale of said one lot or order for H. A. Allen, of Albany, N. Y., of which we have no knowledge, and this we do in consideration of being released by said Geo. B. Cluett, Bro. & Co. from all claims for royalty and damages for said infringements.

In witness whereof we have jointly and severally set our hands and seals the — day of February, in the year one thousand eight hundred and eighty-six.

WM. HENRY RICHARDSON, [L. S.]
L. B. GERTZ, [L. S.]
GEO. B. CLUETT, BRO. & CO., [L. S.]
By J. A. SKILTON, *Att'y.* [L. S.]

Signed, sealed, and delivered in presence of—
W. G. WILSON, *Witness.*

Endorsed: Richardson & Gertz with George B. Cluett, Bro. & Co. Agreement as to letters patent No. 156,880.

597 Cluett *vs.* Claflin. Complainants' Exhibit Wilson and Craven Agreement, Copy. Wm. H. B., Notary Public.

(See Complainants' Printed Record, page 62.)

Whereas letters patent of the United States No. 156,880 were granted unto Robert Cluett November 17, 1874, for an invention known as the bound-bosom shirt, stated in the claim to be as follows:

1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding.

2. The shirt bosom S, composed of two or more thicknesses of

cloth, B L, bound on the outer edge with the binding B″, and secured to the shirt front F by the line of stitching O.

Whereas we, the Standard Shirt Company, John L. Wilson, and Edward T. Craven, all of Easton, Pa., have been engaged in the manufacture and sale of bosom shirts bound at the edge of the bosom, known as the "Bell shirt," and made like the Exhibit A, identified by the signatures of the said Wilson and Craven as forming a part of this agreement, and have manufactured and sold not exceeding one hundred dozen in all of such shirts;

Whereas we, the said Wilson and the said Craven, the former as attorney and counsel of the Standard Shirt Co., for himself as the owner of said company and as the real party controlling and interested in the business, and for Edward T. Craven, individually and as superintendent of said company, have examined a
598 copy of said letters patent, specification, and drawing, and fully understand the same;

Whereas letters patent of the United States No. 330,295, dated November 10, 1885, were granted to said Craven and to Edwin R. Burke jointly, under which bound-bosom shirts have been made by said company, said Wilson, and said Craven;

Whereas the said "Bell shirts" and the shirt or shirts made under said letters patent have been charged as infringements of said Cluett patent by the owners of the same;

And whereas the Standard Shirt Co., the said Wilson, and the said Craven are desirous of making a settlement of the controversy relating thereto:

Now, therefore, know all men by these presents that we, the said company, the said Wilson, and said Craven, hereby jointly and severally concede, admit, and agree as follows:

1. That the said "Bell shirt," a sample of which is identified and made part of this agreement as Exhibit A, as before stated, does contain and embody the invention described and claimed in said letters patent No. 156,880.

2. That said letters patent No. 156,880 are valid; that we, neither jointly nor severally, will hereafter make, use, or sell bosom shirts in which the bosom is bound on the edge by a binding extending around the bosom (except at the neck and yoke) during the lifetime of said letters patent, whether like Exhibit A or otherwise; that in case we or either of us shall hereafter so make, use, or sell shirts made with such binding we will not, either jointly or singly, contest the validity of said letters patent or the utility of said invention, but will always and now do hereby admit the same, and also the fact of our infringement of said letters patent in heretofore
599 making and selling the shirts like Exhibit A, like the invention shown in said letters patent No. 330,295 and in any and all bosom shirts that may be made like them or in which a binding is used as above set forth by us or sold by us hereafter.

In consideration of the foregoing concessions, admissions, and agreements, and in further consideration of the assignment to us by the said Craven of his undivided half interest in said letters patent No. 330,295, and of the procurement of a similar assignment of the

remaining undivided half interest in the same to us by the said Edwin R. Burke, we, George B. Cluett, Bro. & Co., the owners of said Cluett patent, hereby promise to release the said Standard Shirt Company, the said Wilson, and the said Craven, jointly and severally, from the payment of the royalty and damages due and owing to us for the infringements committed in the manufacture and sale of the said one hundred dozen shirts and for no other infringements whatsoever heretofore committed, if any; this release not to be construed as giving any permission or license whatever to use said invention in future.

And we further promise to pay unto said Wilson on procuring said assignment from said Burke the sum of fifty (50) dollars.

In witness whereof we have jointly and severally set our hands and seals the 22d day of January, in the year one thousand eight hundred and eighty-six.

THE STANDARD SHIRT CO. [L. S.]
JNO. L. WILSON. [L. S.]
EDWARD T. CRAVEN. [L. S.]
GEO. B. CLUETT, BRO. & CO. [L. S.]

Signed, sealed, and delivered in the presence of—
JAMES A. SKILTON.

600 Endorsed: John L. Wilson and Edward T. Craven with George B. Cluett, Bro. & Co. Agreement as to letters patent Nos. 156,880 & 330,295.

Cluett *vs.* Claflin. Complainants' Exhibit Sachse Newspaper Slips. William H. Butterworth, N. P.

(See Complainants' Printed Record, page 76.)

The murdered man at the Grangers' Encampment.—The body of the murdered man found near Elm station, Pennsylvania railroad, on February 20th, as published in the Village Record, has not been identified, and a number of prominent citizens in the neighborhood have become so interested in the matter that they offer a reward of $1,000, in addition to the reward offered by the Montgomery county authorities, for the detection and conviction of the murderers. The murdered man is described as follows: Age, about thirty years; height, about five feet seven inches; weight, about 140 pounds; light hair, mustache, and chin whiskers; perfect teeth; had on when found a good muslin shirt with embroidered bosom, linen undershirt with letter H worked in old English with red working cotton on the tail (the last-mentioned shirt has more the appearance of a night shirt than an undershirt, although it was worn as
601 an undershirt); had on a piccadilly collar and narrow black silk necktie; no other clothing. Body very finely formed, no marks of ink, moles, or warts being perceptible upon it. Hands and feet small and delicate. The right side of the skull is crushed in as if by a blow from the butt end of a hatchet. Over the left eye was found a wound such as would be made by a sharp part of a hatchet.

The mysterious murder.—Deputy Coroner Pearce, of Montgomery county, has received a new clue in the mysterious murder case at Elm station. Mr. F. Sachse, a shirt merchant of this city, after a careful examination of the shirt taken from the body of the victim, states that it must have been made in the north of Prussia, and had never been washed since coming from the maker's hands.

(Public Ledger, Mar. 13, 1877.)

The Elm station mystery.—Mr. Julius Sachse, a shirt manufacturer of this city, has made a minute examination of the shirts taken from the body of the man who was found murdered near Elm station, on Pennsylvania railroad. Mr. Sachse states that the undershirt is a German garment, such as is universally worn by Germans of the middle class. It was made of Biehlefeld linen from Northern Prussia and is entirely hand-sewed. The other shirt is a dress shirt made of muslin, with a fine linen bosom of dice work and fine plaits alternately, and opens in front. It is of a peculiar pattern and cut after the pattern of August Schmit, of Dresden. The neck band is thirty-eight centimeters or nearly sixteen inches long, and the sleeves eighty-seven centimeters or about thirty-four and a
602 half inches. The collar is also of German manufacture and is one and a half centimeters smaller than the shirt band. A German letter H is worked in red cotton on the tail of the shirt. Neither of the shirts have ever been laundried in this country, as there are no laundry marks on them such as are invariably placed on garments washed in American hotel or other laundries. From these facts Mr. Sachse concludes that the man was a German who had been but a short time in the country.

The inquest before Deputy Coroner Pearce, of Montgomery county, is not yet completed and no clue to the murderer has been found.

The Elm Station Mystery.

Mr. F. Sachse, a shirt merchant of this city, has been visiting Deputy Coroner Pearce at Ardmore station and examining the shirt found upon the murdered man at Elm station. Mr. Sachse is satisfied that the shirt, which is of a peculiar pattern, was made in the north of Prussia, and that it had never been washed since it came from the maker's hands.

He based this last theory upon the appearance of the linen buttons, which he says were never run through a wringer. The shirt is not embroidered, but has what is known as a dice-work bosom—that is, very narrow pleats. It is of the finest workmanship, and could not be duplicated in this country for less than $7.

603 Cluett *vs.* Claflin. Complainants' Exhibit Sachse Type-Written Slips. Wm. H. B., N. P.

(See Complainants' Printed Record, page 76.)

Elm Station Mystery.

Philadelphia Times, May 17, 1877.

On the 21st of last February the dead body of an unknown man was found in a brush heap about two hundred yards from the Grangers' Encampment at Elm station, a few miles from the Centennial grounds on the Pennsylvania railroad. The remains were mutilated and decayed, bearing the appearance of having been dragged there by the murderer during the last few days of the Centennial. On the body were found a fine shirt with peculiar frill bosom, in one corner of which were German letters. The Philadelphia boys who discovered the body informed the authorities at Ardmore, and Deputy Coroner Josiah S. Pierce, of Montgomery county, held a series of inquests extending over a period of five or six weeks, which inquests they will bring to a conclusion now in a day or two. District Attorney Jacob V. Gotwals assisted in the effort to throw some light upon what has now become a mystery. Several clues were followed to the end, one especially—that of a bloody room in the Grangers' Hotel just before its destruction by fire—promising to account for the murder. The shirts finally became a subject of exhaustive inquiry; their fine texture and peculiar make and the German character, which was generally pronounced to be an "H," which were made known through this and other journals. Mr. J. F. Sachse, of the firm of F. Sachse and Son, shirt-makers, at Eighth and Vine streets, stated that the shirts were undoubtedly made in Diehlfeld, a town in the northern part of Prussia, and communications were at once forwarded to the authorities in that place, by which
604 it was ascertained that a young man named Halle, answering to the meagre description of the body, had been missing since the Centennial.

The Elm Station Mystery.

Philadelphia Public Ledger, March 13, 1877.

Mr. Julius F. Sachse, a shirt manufacturer of this city, has made a minute examination of the shirts taken from the body of the man who was found murdered near Elm station, on the Pennsylvania railroad. Mr. Sachse states that the undershirt is a German garment, such as is universally worn by Germans of the middle class. It was made of Biehlefeld linen from Northern Prussia, and is entirely hand-sewed. The other shirt is a dress shirt made of muslin with a fine linen bosom of dice-work and fine plaits alternately, and opens in front. It is of a peculiar pattern and cut after the pattern of August Schmit, of Dresden. The neck band is 38 centimetres, or nearly 16 inches long, and the sleeves 87 centimetres, or about 34½ inches. The collar is also of German manufacture, and is one and

a half centimetres smaller than the shirt band. The German letter "H" is worked in red cotton on the tail of the shirt. Neither of the shirts have ever been laundried in this country, as there are no laundry marks on them such as are invariably placed on garments washed in American hotel or other laundries. From these facts Mr. Sachse concludes that the man was a German who had been but a short time in the country. * * *

605 The Philadelphia Public Ledger of February 22, 1877, has an advertisement describing the body as follows:

He had on two shirts—outside shirt of muslin with finely embroidered bosom; the undershirt of linen, with old English letter "H" worked with red cotton on the tail. Remains probably been buried where found since the close of the Centennial.

(Signed) J. S. PIERCE,
Deputy Coroner.

From Philadelphia News, (?) Jan. 17, 1886.

Where Whalen Committed Suicide.

Wilson is in the cell formerly occupied by Heinrich Whalen, who murdered Max Hugo Hoehne during the Centennial year at Elm station, near Philadelphia. Whalen was convicted of murder in the first degree, and hung himself in the cell before justice was meted out to him by the law. Whalen was found long after the murder of Hoehne in Kings county penitentiary, New York, serving out a term of imprisonment of four years for burglary. One thousand dollars reward had been offered for the discovery of the murderer, which sum was paid to Detectives J. M. Hart and Ben. Abrams, of Norristown. Whalen had knocked his victim in the head with a hammer and buried his body on a hillside. A number of boys discovered it afterward and the shirt on Hoehne's body was identified by Sachse, the shirt manufacturer of this city, as having been made in a certain place in Germany. Whalen personated Hoehne after the murder, and received drafts of money in his name for some time afterward. He was defended by George M. Corson and T. Warren O'Neill, the latter of whom has since become insane and is now in the asylum.

606 Cluett *vs.* Claflin. Complainants' Exhibit Cluett Article and Cut. O. S. I., N. P.

(Quotations from pages 607 to 617, inclusive, of "The Great Industries of the United States," published in 1872. See Complainants' Printed Record, page 121.)

Linen collar and cuff manufacture.

Ancient prohibition of sewing.—Subdivision of labor.—Significance of white underclothes.—Statistics of collars and cuffs.—Home-made collars.—Scale of Messrs. Cluett, Bros. & Co.'s works.—Process of getting out a new style.—Sizes of people's necks.—Cutting the cloth.—Series of operation in sewing.—The sewing-machine room.—The laundry and its inventions.—Finishing and inspection of the goods.—Forethought and enterprise in preparing business.—The parasitic method of doing business.—Relations with operatives.—Requisites of men's and women's goods.

It is a curious fact that processes of manufacture have been prohibited not only from business prejudice, but from religious feelings as mistaken as those of the pious old gentleman who actually argued against canals within a century, because, he said, if God had meant to have water run in these channels he would have made it do so. Until the period of the Mohammedan invasion of India (A. D. 664) it was universally held a sacrilege in that country to wear garments made from pieces of cloth sewed together. Every garment was therefore woven in a single piece or cut from a larger one, needle-work was at an enormous discount, and the sewing-machine would have been reckoned a tremendous engine of wholesale damnation.

It is far different now. The tendency to multiply the varieties of all manner of commodities, to apply machinery to the making
607 of separate parts of each on wholesale principles, and to divide and subdivide those parts almost to infinity has become the very spirit of the age, and the employment of the sewing-machine is one of the very latest and largest and most wonderfully useful of all the steps of this social progress.

The first period in the history of dress was that of skins and fig leaves. Next came the use of woven fabrics, but thus far always of family make. Then those better gifted or situated for the purpose began to weave goods for others to make, and "purple and fine linen" are among the very earliest commodities named in the history of commerce.

The ready-made clothing business of comparatively recent date in Christendom was obviously likely to be introduced far earlier where garments were mostly constructed on the model of a sheet. There have, however, been "slop shops" in Europe for centuries, although the application of the wholesale methods of modern manufacture has been much later, and after the separate clothing business had grown up, and even after a still further division had set apart the under-clothing business, and yet again the men's underclothing business, came the latest subdivision of all—the collar-and-cuff business. It

remains to be seen whether extensive business houses will be founded in the future for nothing except to make button-holes. The button business is already set apart.

Cleanliness and white garments always go together, and the frequent mention of the two in the Bible is, as it most evidently must naturally be, in precise harmony with the constitution of humanity. Where any clothes at all are worn it will be found that white underclothes go with cleanliness of the person.

Dress serves more than one purpose. It is for modesty, for comfort, and for ornament, and the tendency of modern improvement in costume is to serve all three of these purposes and at the same
608 time to avoid interference with the requirements of business engagements and physical activity. Now, the most characteristic and elegant finish of modern costume is given by permitting the appearance of the white margin of the innermost garments at the neck and wrists, those being the only places (except so far as ladies allow their shoulders, arms, etc., to be visible) where the person is uncovered. The white borders thus displayed are themselves an agreeable finish in point of color for artistic reasons. They also give the further agreeable intimation of physical cleanliness, and they are susceptible of being treated with a great variety of effective and graceful ornament.

It is evident that the daily emergencies of life should soil more rapidly white surfaces exposed to the outer atmosphere than those which are covered, and this is a sufficient reason for putting on a clean collar and clean cuffs oftener than a clean shirt. There are no authentic statistics of shirts, so far as our present knowledge extends, but it requires no very complicated calculation to show that the number of collars and cuffs which must be manufactured in the United States in a year is immense. We have a population of about forty million persons. Suppose the very liberal allowance of one-quarter deducted as too young for such elaborate articles of costume and another quarter as too slovenly or too poor and twenty millions remain. Now, at six collars and six pairs of cuffs each—an extremely moderate rate—being eighteen items in all, the United States at any given moment is using three hundred and sixty million articles of white goods—or thirty million dozen—for dress finish at neck and wrists. These six collars and six pairs of cuffs will not, on an average, last more than a year, and therefore the above total quantity must be manufactured anew every year. Even if these sums total should be greatly too large it remains beyond question that the actual totals are enormous.

609 The history of arts and trades shows many instances of the concentration, for one reason or another, of the manufacture of some one article in some one place. Thus the hat business has been established at Danbury, Connecticut, for more than a hundred years; clocks are made, as if by a natural, local growth, at Terryville; cheap jewelry at Attleboro', and so on.

It is by the operation of this law of aggregation that the business of manufacturing collars and cuffs, along with one or two other closely related occupations, has grown up at Troy, New York, where

about eighteen firms, some of them quite wealthy and all energetic, are established in this one business. It is proposed in this paper to describe the organization and operation of one of these firms—that of George B. Cluett, Brother & Co.—as an illustration at once of the actual extent and importance of the demand for articles seemingly of trifling significance, of the surprising investment of money and inventive talent, and the astonishing complexity of the operations that are carried on in order to produce goods which shall suit the increasing fastidiousness of customers about style and workmanship, which shall at the same time not cost too much for the average purse of the citizen and which shall, nevertheless, afford to the manufacturer a just compensation for his time, labor, and talents.

The wife or mother who sits down to finish off the wardrobe of one of her "men folks" with half a dozen collars has a simple task to perform. She measures the neck and receives or should receive a kiss for her trouble, or takes the measure from a shirt or an old collar. If the latter, she has a pattern all ready; if the former, she cuts out a paper pattern by memory or by judgment or by haphazard. Then she cuts the linen for the bands and the collar-pieces, bastes them, sews them, makes the button-holes, rinses them, starches them, rough-dries them, sprinkles them, irons them, and it is done.

610 At the very furthest opposite extremity of the scale of industrial establishments from this solitary needlewoman stands a great factory like that of George B. Cluett, Brother & Co., with its dozen of great rooms, each occupied by the hands busied in one special stage of the manufacture; its hundreds of outside hands, all checked and organized to carry the work through certain stages; its lofty, airy sewing-room, with a hundred clattering sewing-machines driven by steam; its departmental laundry, supervised by a practical chemist and inventor; its extensive depot of goods ready for the market, and its endless, innumerable mass of daily accumulations that, if whirled abroad upon the air before some tempest employed for the purpose, would whiten the whole country with a linen snow-storm of tens of thousands of flakes in cuffs and wristlets and collars and fronts and habits for ladies and gentlemen of every imaginable pattern at the rate of acres per day.

Not the least important era in the history of a collar is that before it exists. Suppose, for instance, you buy in September a new supply of collars of the newest fall styles from the manufactory of Messrs. George B. Cluett, Brother & Co. If the processes attending the development of this style went through a usual course that course began in June in the brain of Mr. Cluett or of one of his three brothers or perhaps of one of their employés and began with an idea. This was the idea of a collar to be in one way or another improved upon or varied from the current styles. Perhaps it is to be broader in the band, or rounded in front, or with sharp points in front, or with points turned down or sloped off at the tie at a wide angle or at a narrow angle, or stitched with a new arrangement of the lining or with a new device for securing clean, sharp corners, and so on.

Well, this idea grows and develops until it is complete enough to be embodied in a pattern, and if it is considered likely to
611 please the public the next question is, How much cloth will it waste? This is ascertained by trying the pattern on the width of the cloth, and it is accepted, modified, or rejected as may be required. This being decided, from twenty to thirty pieces of wood have next to be fashioned, being the working patterns which the cutters use in shaping the pieces from the cloth ready for sewing. The number is fixed as follows: One wooden pattern gives the form of the band and another of the collar; but necks are not all of the same size. Practically, men's necks are from twelve and a half to eighteen inches round and women's from ten to sixteen and a half inches, though extra sizes are sometimes furnished to order as far as to twenty-one inches. It is found that a scale of half-inch differences is best between these extremes, so that for the band of the supposed new style of collar there must be a separate wooden pattern for the 12½-inch, 13-inch, 13½-inch, and so on up to eighteen inches, being in this instance, which is an average one, twelve patterns. Twelve patterns more to match these are also made for the collar part. These patterns are cut out of carefully seasoned thin boards of maple wood.

Next comes the cutting. For this purpose a whole piece of cloth, or even more, is carefully laid out even and smooth on the cutting board, which is a thick plank of white pine. This wood blunts the knives less than any other, and when the surface is roughened and crumbled under the innumerable knife strokes it is planed down to a new clean stratum again. The cloth is laid forty-eight thick, and a number of heavy bell-shaped masses of iron, like large paper-weights, are placed on it to keep it in place. The knives used have short blades, somewhat after the style of a small, short shoe-knife, and the blade is separate, fastening into the handle while in use with a small set-screw.

There is one single blacksmith in Troy who possesses exclusively the secret of giving to these knives exactly the right temper
612 to go through forty-eight thicknesses of linen with the least possible trouble. He keeps his secret like the legendary forgers of fairy blades in the old stories of chivalry and makes a very good thing of it.

Having thus been cut out, the pieces are put together in little parcels, each containing the materials for a dozen collars, and the family thus formed remains together through all the subsequent vicissitudes of its youth in the factories until, having, as it were, grown up to maturity, it is dispersed abroad into the great world, each member to shift for itself—*i. e.*, it goes into the hands of a customer to be retailed or worn out.

The successive operations which now follow are these: The collars, having been (1) cut, are (2) run, (3) turned, (4) stitched, (5) bands run over, (6) bands turned, (7) bands stitched, (8) button-holes cut, (9) button-holes worked. Of these operations some parts are done by outside hands, but most of them in the factory. All the rooms of Messrs. Cluett, Bros. & Co.'s building are usually light, airy, and

well ventilated, and their sewing-machine room, in particular, which was formerly a public hall, is a remarkably lofty and airy room. The balcony which the fiddlers used to occupy is still there, but the innumerable sharp chatter of a hundred sewing-machines fills the room with a noise that leaves no place for other music, and the vibration of the needles beats the speed of a fiddler's elbow quite out of sight.

The machines are arranged in rows across the room, and each is belted to a shaft that runs along the floor and supplies the necessary power. This arrangement wholly obviates the well-known serious objections to sewing-machines worked by treadle power. The day's work of each machine is equal to what could be done by at least twenty women, and the hundred together, therefore, constitute a working force equal to two thousand sewing women without machines. An extreme estimate would add another thousand to this total.

613 When all these sewing processes are at last complete the collars—and so of other articles, for we are following the fortunes of the collar as a representative of the rest—are transferred to the laundry, where a second series of eleven processes is gone through with besides the mere transfer. These are as follows:

(1) washing in suds to remove the manufacturer's "dressing" from the goods; (2) bleaching by means of hyperchloride of soda; (3) application of dilute sulphuric acid to complete the bleaching process; (4) washing in suds to remove the acid; (5) boiling; (6) rubbing and rinsing; (7) bluing and rolling; (8) starching with thin starch; (9) starching with thick starch; (10) drying; (11) ironing.

These operations are greatly facilitated by the arrangement and fitting up of the different rooms and by various devices for economizing labor and power. Thus a peculiar formation of the stove for heating irons keeps forty of them hot all the time, with a small average consumption of coal. The order of the tubs used is such as to make the progress of the goods easy through the successive processes, etc. The starch used is not of wheat, but of corn, which is found to be equally efficient, cheaper, and much less disagreeable to the fingers of the operators. This is a pretty important consideration, for it is found to make the difference between sore fingers and healthy ones—that is, work or idleness, besides pain, which is sometimes no small item, as the very agonizing local inflammation called fellon has occasionally been somewhat frequent among those who work in the starching-rooms.

After the ironing each family of a dozen collars is once more assembled and carried to the inspecting department. A system of inspection is, however, maintained throughout all the works,

614 and it is necessary to use a good deal of strictness in order to prevent the destruction of much valuable property by careless making up. This final inspection, however, decides upon the quality of the completed goods as adapted for the market; and, upon passing, each separate article is stamped with the name of its style and size, after which the dozen is enshrined in its neat paper box, there to remain until sold to the consumer. The firm formerly

packed in larger single parcels, but the convenience of trade has made it an invariable rule to pack everything by single dozens, and the dozen is accordingly the sole ultimate numeral standard of the business, no smaller or larger number of any article being packed in one paper box.

The finished goods sent to market by Messrs. George B. Cluett, Brother & Co., being thus thought out and adapted in advance of the demand, are accumulated, according to the practice of the firm, to a very considerable extent. It is not unusual for them to have on hand thirty thousand dozen or more of articles all ready for use, each having gone through the whole series of twenty processes that have been described, and representing, of course, a very large sum of money paid out for materials and labor.

Moreover, this forethought in determining styles must be successful or the result must be a serious loss to the firm. No moderate number of collars, for instance, can be made up at once and sent out as specimens with the expectation of manufacturing to fill orders if the new style suits. There will not be time for that, for there are plenty of rival houses ready to snatch after any good new idea, and who do, in fact, do so as it is, so that the chief advantage which this shrewd and wide-awake firm can reap from their good judgment and invention depends upon their running the risk of success. They therefore take it for granted that each new style will succeed. In sporting language, they "back themselves heavily every time."

The result justifies this bold practice, for hitherto, with
615 unimportant exceptions, the large stocks which they have ventured to make up on this principle have enabled them to constantly keep in advance of their competitors, notwithstanding the unfair as well as fair efforts of others in the same business. Cases have been known, indeed, of a systematic boast that such a one would keep up with all of Cluett's new styles and have them in the market as soon as they, which is very much as if a parasite insect should boast that his blood was as good as that of the man he sucked it from. Such boasts have been in some measure accomplished, too, by secret espionage among the hands and similar methods, but as yet without any signs that this parasitic method is materially injuring either the invention, the temper, or the pocket of George B. Cluett, Brother & Co.

This firm, on the contrary, is well satisfied with that sort of success which is the only really desirable one in business—honest gains from enterprise, industry, and fair dealing. Steady kindness and at the same time as much strictness as is necessary keep them popular with their hands, of whom they employ from five hundred to eight hundred. This treatment and the pleasant quarters afforded to their operatives secure the important advantage of steady help. Some of those in the establishment have been with the firm for twelve years or more, and it has repeatedly happened that those who left for one or another reason have returned and asked to be employed again, having found neither their new employers nor their new quarters as comfortable. This amicable state of things does not, however, prevent a strenuous adherence to their rights. A few

years ago a so-called "working-women's union" was set up among the hands, and at once went to work to raise wages. Apparently there was a measure of justification for the step, since the required advance was granted, as was another within a few months.

616 A third, however, met with a prompt refusal. The manufacturers, though not organizing into any formal body, agreed to put a stop to the performances, the Messrs. Cluett being among the very first in taking this ground. The demand of the "Union" was peremptorily refused, work stopped, the ill-advised strikers were let alone until they returned to work at previous rates, and the union was exterminated, as no member of it would be employed.

There are some noticeable differences between men's goods and women's goods as they appear in a large house like that of George B. Cluett, Brother & Co. Women's collars, cuffs, etc., very properly admit of much more ornament, both in form and finish, than is allowable on men's goods, and accordingly they cost decidedly more per article. On the other hand, the ladies' goods do not have to be made and put up with nearly so much accuracy in respect to length by inches and halves, etc., as the pin method of fastening, and ladies' ways of finishing with a bow of ribbon or the like render it easier to fit them.

It is curious to see how much and how effective ornament can be put on work turned out in the wholesale style of this firm. Insertion, cords, plain and colored stripes, dots, edgings, embroideries of many kinds, besides the endless variety of graceful outline, are used on the collars, cuffs, under-sleeves, habits, etc., of the ladies' goods department, affording, of course, a much wider field for the inventive and artistic faculties of the firm than the comparatively monotonous and plain goods which are "good enough for the men."

This house, which offers so admirable an instance of how readily the American business world adapts itself to new conditions and turns them to its own uses, is composed of four brothers, whose names may well be given here in full as belonging to the history of American industry—George B. Cluett, J. W. Alfred Cluett, Robert Cluett, Edmund Cluett.

617 Cluett *vs.* Claflin. Complainants' Exhibit Cluett Welt Patent. O. S. I., N. P.

(See Complainants' Printed Record, page 132.)

UNITED STATES PATENT OFFICE.

ROBERT CLUETT, of Troy, New York.

Improvement in Shirt Bosoms.

Specification forming part of Letters Patent No. 161,205, dated March 23, 1875; application filed April 8, 1873.

To all whom it may concern:

Be it known that I, Robert Cluett, of the city of Troy, county of

Rensselaer and State of New York, have invented a shirt and bosom, of which the following is a specification:

The objects sought to be accomplished by my invention are to provide for free motion of the shoulders of the wearer and obviate the defects in a shirt bosom of the full usual width, general shape and form at the top or without substantial change in this part of its contour, so that the rumpling, wrinkling, and misfitting of the bosom frequently existing may be prevented and the comfort of the wearer be thereby promoted.

The same objects have been sought to be accomplished by drawing or curving in the upper part of the bosom on each side of and to the neck band. My invention differs from this method in having the bosom of full width at top and not having the bosoms so drawn or curved in and providing therein the means described hereafter to accomplish these objects.

The means I use to accomplish these objects consist, first,
618 in cross-welts, seams, folds, or thicknesses of material interposed in the bosom between the front line of the yoke or shoulder piece on either side and a line drawn across the bosom at the bottom or front of the neck band, traversing the two narrow projections or extensions of the bosom around the neck band diagonally, and constituting a sort of hinge or line of flexure for the bosom from the motions of the shoulder; and, second, in a shirt bosom made of two or more thicknesses of material in the main part, but made of a less number of thicknesses in the extensions on each side of the neck band, so that the upper parts of each will be comparatively thin and pliable, and the lower or main part will be thick and stiff as usual and as required in that part of the shirt bosom; and, third, in the combination of these two elements.

The seam or welt is an element or subdivision of my invention independent of the difference in the number of plies above and below it, and consists in an increased thickness or stiffness at that point or on that line over both the parts above and the parts below it, which in itself resists the tendency of any rumple coming from a motion of the shoulders above or wrinkles coming from slight displacement during washing and ironing to extend below it, and also helps to keep the exposed part of the bosom extended and flat under all the usual circumstances of wear and use. The effects of the welt or seam are increased by making the parts of the bosom above it of less thickness than the part below it.

The shirt and bosom constituting or containing my invention are shown in the several figures of the accompanying drawing, where A represents the body of the shirt; B, the bosom; C, the yoke, spring, or shoulder piece, and S S, the welts or seams. That part of the body A which lies under the bosom constitutes the back layer of
619 the bosom when the bosom is inserted entirely and not laid on and attached to and over the body, and is also substantially the back layer or lower ply of the bosom when the bosom is attached over the body.

The sectional view, Fig. 2, shows the location of the welt or seam S in the bosom, which gives increased stiffness to the bosom where

it is located over and above that existing below or above it, and thereby protects the main part of the bosom from the tendency to rumple derived from the motion of the shoulders of the wearer or otherwise arising. It also shows how the several layers or plies of the bosom are placed in reference to each other.

The proper location of the welt or seam to secure the desired effect varies with the forms of those who wear the shirt, persons of full form requiring less allowance for the motion of the shoulders than those of spare form.

The welt or seam may be formed by folding over the upper edge of one or more plies of the bosom or its linings or in any suitable known way, and should be securely stitched to prevent displacement during the washing process. The stitching may be to and through the front or back layer of the bosom or to and through all or any of the several layers constituting the shirt bosom.

The parts above the seam or welt are made thinner than the part below by the extension of a part only—one or more layers—of the material composing the bosom up to the yoke or shoulder piece C, to which attachment is made in the usual manner. Figs. 1 and 3 show the front layer so extended.

I claim as my invention—

1. The welts S S interposed in a shirt bosom drawn between the shoulder pieces and a line drawn across the bosom at the front of the neck band, as shown and described.

2. A shirt bosom composed of two or more plies or thicknesses of cloth in the main part and of a less number in the upper portions of the extensions of the bosom, as shown and described.

620 3. The stiffening welts S S and the shirt bosom B, composed of varied thicknesses, in combination and placed in the relation to each other shown and described.

ROBERT CLUETT.

Witnesses:
JAMES A. SKILTON.
THOS. HOUGHTON.

Cluett *vs.* Claflin. Complainants' Exhibit Myers Patent. O. S. I., N. P.

(See Complainants' Printed Record, page 133.)

UNITED STATES PATENT OFFICE.

JAMES H. MYERS, of Troy, New York.

Improvement in Shirt Bosoms.

Specification forming part of Letters Patent No. 153,367, dated July 21, 1874; application filed June 15, 1874.

To all whom it may concern:

Be it known that I, James H. Myers, of the city of Troy, in the county of Rensselaer and State of New York, have invented cer-

tain new and useful improvements in shirt bosoms, of which the following is a specification, reference being had to the accompanying drawing.

The bosoms of gentlemen's shirts are commonly composed of three or more layers of linen, or linen and cotton cloth, and have the entire upper side parts, which extend along and are sewed fast to the neck band, of the same thickness and stiffness as the main body of the bosom. Such thick and stiff upwardly extended side
621 parts of the bosom prevent the sides of the neck band from freely conforming to the neck of the wearer, and often cause the exposed upper part of the bosom to rumple and fit badly and feel very disagreeable to the person. To remedy or lessen that defect and to stiffen and sustain the side parts of the upper portion of the bosom where exposed to view are the principal objects of my present invention, which consists, first, of a shirt bosom having the upper parts of its two upwardly extended side portions made thinner and more flexible than the main body of the bosom; and, secondly, of thickening and stiffening strips formed and arranged in and across the lower parts of the upwardly extended portions of the bosom, substantially as hereinafter described.

In the aforesaid drawing, figure 1 is a front view of the body of a gentleman's shirt having one of my improved bosoms. Fig. 2 represents a shirt front having one of my improved bosoms, of which some parts are partially detached, and Fig. 3 is an enlarged section of the same at the line *z z*, and Fig. 4 is a like section at the line *y y*. Fig. 5 is a front view of one of my improved shirt bosoms having a portion partly detached, and Fig. 6 is a section of the same at the line *x x*, and Fig. 7 a section at the line *w w*. Fig. 8 represents a portion of one of my improved shirt bosoms, and Fig. 9 is a section of the same at the line *v v*. Fig. 10 shows the upper parts of one of my improved shirt bosoms, which can be opened in the middle, and Fig. 11 is a section of the same at the line *u u*.

A is the main body of the bosom, and B B are the two upper end portions thereof, which are thinner and more flexible than the main bosom body. The body of the bosom is formed of layers of woven fabric, and either plain or plaited in the usual or any suitable manner. The upper end parts B B are formed by continuations of only the front layer C of the bosom, with or without like extensions
622 of the extreme back layer *d*, or other suitable layer of the bosom body, when the latter consists of three or more thicknesses of woven fabric. The stiffening strips E E are formed by a fold or folds in the inner or back layer or layers of the bosom, and are held in place by a row or rows of stitches, *g*, which may or may not extend through another layer or other layers of the bosom, or the stiffening strips E E can be formed by securing separate strips of any suitable fabric back of the front layer *c* by means of stitches passing through such strips and a layer or layers of the bosom, whether the upper parts of the extended side portions of the bosom are or are not thinner and more flexible than the bosom body. In the bosom represented by Figs. 8 and 9 there are no stiffening strips across the lower parts of the upwardly extended side portions B B.

In the bosom shown by Figs. 10 and 11 the stiffening strips E E are each formed by a single fold in the one middle layer *f*. In Figs. 5 and 6 each stiffening strip E consists of two folds of the one inside layer. In Figs 2 and 3 each stiffening strip E is composed of a single fold of the two inner layers *f f* of the bosom, and a portion of the shirt front H constitutes the back layer *d* of the bosom body and of the thin upper end portions B B. The thin upper portions B B may extend down more or less, near to the middle of the bottom of the neck recess I in the bosom, but I generally prefer to have the bosom of full thickness along the middle portion of the bottom of that recess, so as to prevent the rumpling of the bosom at that place. In a shirt the seams which unite the thin upper end portions B B of the sides of the bosom to the neck band J and yoke K are smaller and less rigid and less liable to be broken or injured in ironing than in a shirt which has the extended upper side parts of the bosom of the same thickness as the main body thereof.

While a starched and ironed shirt having my improved
623 bosom is being worn the extended thin upper parts B B of the bosom are generally covered and hid from view by the collar or cravat and vest of the wearer, and while thus concealed are freely flexible, so as to allow the sides of the neck band to conform and fit nicely to the neck of the person without rumpling or displacing the adjacent upper portions of the bosom which are exposed to view.

The stiffening strips E E help to support and keep in place and prevent wrinkles in the side parts of the bosom which are exposed to view immediately below the concealed upper end portions thereof and which are generally more liable to get rumpled or displaced than the other parts of the bosom that are in sight while the bosom is being worn.

What I claim as my invention is—

1. A shirt bosom, the main body of which is composed of two or more layers or thicknesses of material, having its upper portions B B of a less number of the thicknesses than the main body, substantially as described and shown and for the purpose set forth.

2. In combination with the shirt bosom A, the stiffening strips E E, substantially as described and shown and for the purpose set forth.

In testimony whereof I hereunto subscribe my name this 9th day of June, 1874.

JAMES H. MYERS.

Witnesses:
GEO. P. LAWTON.
AUSTIN F. PARK.

624 Cluett *vs.* Claflin. Complainants' Exhibit Loeber's Naturalization Papers. A. McL., N. P.

(See Complainants' Printed Record, page 164.)

Exemplification.

PHILADELPHIA COUNTY, } *sct:*
State of Pennsylvania, }

Among the records and proceedings of the court of common pleas No. 2 for the county of Philadelphia, State of Pennsylvania, the following may be found as matter of file and of record at——

Naturalization Index.

No.	Name.	Country.	Voucher.	When admitted.	Court.
57	Loeber, Jacob---	Germany -	Michael Minor, Nevill.	Oct. 4, 1878	Common pleas No. 2.

Minor's Petition Blank.

To the honorable the judges of the court of common pleas No. 2 for the county of Philadelphia:

The petition of Jacob Loeber, a native of Germany, respectfully showeth—

That he declared on oath before the prothonotary of the said court on the 4th day of October, A. D. 1878, that he had arrived in the port of New York in the year 1871, and that at the time of his arrival he was under eighteen years of age; that he has continued to reside in the United States since that period; that for three years previous to his arrival at full age it was and still is *bona fide* his intention to become a citizen of the United States and of re-
625 nouncing forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly to the Emperor of Germany, of whom he was at that time a subject; that your petitioner has resided within the United States five years last past immediately preceding this his application to become a citizen of the United States and one year in the State of Pennsylvania.

That he has never borne any hereditary title or been of any of the orders of nobility in his own or any other country.

He therefore prays that, on making the proof and taking the oath prescribed by law, he may be admitted a citizen of the United States of America.

And he will ever pray, etc.

Name, JACOB LOEBER.

Residence, 813 Lawrence St.

MICHAEL NEVILL, a citizen of the United States of America, being duly sworn according to law, saith that he knows and is well acquainted with said Jacob Loeber, the petitioner; that to his knowledge he has resided in the United States for five years last past immediately preceding his application to be a citizen and one year in the State of Pennsylvania; that during the said period he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the same.

Name, MICHAEL NEVILL.

Residence, 860 McGrath.

Sworn in open court this 4th day of October, A. D. 1878.

AND'W J. REILLY,
Pro Prothonotary.

626 I, Jacob Loeber, do swear that the contents of my petition are true; that I will support the Constitution of the United States, and I now renounce and relinquish any title or order of nobility to which I am now or hereafter may be entitled, and I do absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly to the Emperor of Germany, of whom I was before a subject.

JACOB LOEBER.

Sworn in open court this 4th day of October, A. D. 1878.

AND'W J. REILLY,
Pro Prothonotary.

Approved by—
D. N. F.,
Judge C. of C. P. No. 2.

THE COMMONWEALTH OF PENNSYLVANIA, *County of Philadelphia*, } ss:

I, William B. Mann, Esquire, prothonotary of the several courts of common pleas, numbers, one, two, three, and four respectively, for the county of Philadelphia, do certify that the foregoing is a true copy of the whole record in the matter of naturalization of Jacob Loeber as full, entire, and complete as the same remains on file in court of common pleas No. 2 for the county of Philadelphia in the matter there stated.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court this 22nd day of September, in the year of our Lord one thousand eight hundred and eighty-six (1886). [SEAL.]

WILLIAM B. MANN,
Prothonotary.

627 COUNTY OF PHILADELPHIA, ss:

I, J. I. Clark Hare, president judge of the court of common

pleas No. 2 for the county of Philadelphia, do certify that the foregoing record and attestation made by William B. Mann, Esquire, prothonotary of the said court, whose name is thereto subscribed and seal of office affixed, are in due form and made by the proper officer.

In testimony whereof I have hereunto set my hand this 22d day of September, in the year of our Lord one thousand eight hundred and eighty-six (1886).

[SEAL.]

J. I. CLARK HARE.

COUNTY OF PHILADELPHIA, *ss:*

I, William B. Mann, Esquire, prothonotary of the several courts of common pleas, numbers one, two, three, and four respectively, for the county of Philadelphia, do certify that the Honorable J. I. Clark Hare, by whom the foregoing attestation was made and whose name is thereto subscribed, was at the time of making thereof and still is president judge of the court of common pleas No. 2 for the county of Philadelphia, duly commissioned and sworn, to all whose acts as such full faith and credit are and ought to be given as well in courts of judicature as elsewhere.

In testimony whereof I have hereunto set my hand and affixed the seal of the said courts this 22d day of Sept., in the year of our Lord one thousand eight hundred and eighty-six (1886).

[SEAL.]

WILLIAM B. MANN,
Prothonotary.

628 Cluett *vs.* Claflin. Complainants' Exhibit Geo. B. Cluett, Ford Affidavit. E. S. B., N. P. October 7, 1886.

(See Complainants' Printed Record, page 262.)

In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

CITY OF TROY,
County of Rensselaer, State of New York, } *ss:*

GEO. B. CLUETT, of the city of Troy, county of Rensselaer, and State of New York, being duly sworn, deposes and says—

That Geo. B. Cluett, J. W. A. Cluett, Robert Cluett, and R. S. Norton are the partners now comprising the firm of Geo. B. Cluett, Bro. & Co.

and that no other persons have been members of the said firm
629 during the past three years; that deponent is informed that Ed. Elisha Mack, in his deposition made herein on the 9th day of April, 1886, and in answer to cross-question 22, made the following statement, referring to an alleged statement made by one Hiram N. Ford, a witness herein, viz: "He (Ford) stated that the Cluetts had offered him eight hundred dollars to not testifuy in any case to what he knew regarding the manufacture of the bound-bosom shirt and his assignment to them of priority of invention;" that deponent is further informed that in an alleged letter purporting to be written by the said Ford to Messrs. Mack & Co., dated Hudson, New York, September 3, 1885, and put in evidence herein, the following statement is made or appears to be made by said Hiram N. Ford: "I find that I am able to obtain from other parties the sum specified in the article and without any further trouble to me, but, as I agreed to take the sum from you, I am ready to fulfill."

Deponent further says that he, deponent, does not know and has never seen the said Hiram N. Ford, and prior to December 2, 1885, when said Ford gave his testimony herein, deponent did not know of the existence of such a person as Hiram N. Ford, had never in any way, shape, or manner heard of the existence of said Ford, and had never had any communication nor any business or other relations with the said Ford of any kind whatsoever; and deponent further says that so far as he, deponent, is concerned, individually and as a member of the firm of Geo. B. Cluett, Bro. & Co., the statements above quoted from the deposition of the said Mack and also from the deposition of the said Ford, in so far as they suggest or state that the said firm of Geo. B. Cluett, Bro. & Co. made any offers or promises of money to said Ford or that any member of said
630 firm has ever made or contemplated such offers or promises to the said Ford, the same are entirely false and untrue.

GEO. B. CLUETT.

Sworn to before me this 2d day of October, 1886.

C. G. CLEMINSHAW,
Com. of Deeds for City of Troy, County of Rens., State of N. Y.

Endorsed: United States circuit court, southern district of New York. George B. Cluett *et al. vs.* Horace B. Claflin *et al.* Affidavit. James A. Skilton, solicitor for complainants, 115 Broadway, New York.

631 Cluett *vs.* Claflin. Complainants' Exhibit J. W. Alfred Cluett, Ford Affidavit. E. S. B., N. P. October 7, 1886.

(See Complainants' Printed Record, page 262.)

In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

CITY OF TROY,
County of Rensselaer, State of New York, } *ss:*

J. W. ALFRED CLUETT, of the city of Troy, county of Rensselaer, and State of New York, being duly sworn, deposes and says—

That Geo. B. Cluett, J. W. A. Cluett, Robert Cluett, and R. S. Norton are the partners now comprising the firm of Geo. B. Cluett, Bro. & Co., and that no other persons have been members of
632 the said firm during the past three years; that deponent is informed that Ed. Elisha Mack, in his deposition made herein on the 9th day of April, 1886, and in answer to cross-question 22, made the following statement, referring to an alleged statement made by one Hiram N. Ford, a witness herein, viz: "He (Ford) stated that the Cluetts had offered him eight hundred dollars to not testify in any case to what he knew regarding the manufacture of the bound-bosom shirt and his assignment to them of priority of invention;" that deponent is further informed that in an alleged letter purporting to be written by the said Ford to Messrs. Mack & Co., dated Hudson, New York, September 3, 1885, and put in evidence herein, the following statement is made or appears to be made by said Hiram N. Ford: "I find that I am able to obtain from other parties the sum specified in the article and without any further trouble to me, but, as I agreed to take the sum from you, I am ready to fulfill."

Deponent further says that he, deponent, does not know and has never seen the said Hiram N. Ford, and prior to December 2, 1885, when said Ford gave his testimony herein, deponent did not know of the existence of such a person as Hiram N. Ford, had never in any way, shape, or manner heard of the existence of said Ford, and had never had any communication nor any business or other relations with the said Ford of any kind whatsoever; and deponent further says that so far as he, deponent, is concerned, individually or as a member of the firm of Geo. B. Cluett, Bro. & Co., the statements above quoted from the deposition of the said Mack and also from the deposition of the said Ford, in so far as they suggest or state that the said firm of Geo. B. Cluett, Bro. & Co. made any offers

or promises of money to said Ford or that any member of
633 said firm has ever made or contemplated such offers or promises to the said Ford, the same are entirely false and untrue.

J. W. ALFRED CLUETT.

Sworn to before me this 2d day of October, 1886.

C. G. CLEMINSHAW,
Com. of Deeds for the City of Troy,
County of Rens., State of New York.

Endorsed: United States circuit court, southern district of New York. George B. Cluet *et al. vs.* Horace B. Clafflin *et al.* Affidavit. James A. Skilton, solicitor for complainants, 115 Broadway, New York.

634 Cluett *v.* Claffin. Complainants' Exhibit Rowland S. Norton, Ford Affidavit. E. S. B., N. P. October 7, 1886.

(See Complainants' Printed Record, page 262.)

In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

CITY OF TROY,
County of Rensselaer, State of New York, } *ss:*

ROWLAND S. NORTON, of the city of Troy, county of Rensselaer, and State of New York, being duly sworn, deposes and says—

That Geo. B. Cluett, J. W. A. Cluett, Robert Cluett, and R. S. Norton are the partners now comprising the firm of Geo. B. Cluett, Bro. & Co., and that no other persons have been members of
635 the said firm during the past three years; that deponent is informed that Ed. Elisha Mack, in his deposition made herein on the 9th day of April, 1886, and in answer to cross-question 22, made the following statement, referring to an alleged statement made by one Hiram N. Ford, a witness herein, viz: "He (Ford) stated that the Cluetts had offered him eight hundred dollars to not testify in any case to what he knew regarding the manufacture of the bound-bosom shirt and his assignment to them of priority of invention;" that deponent is further informed that in an alleged letter purporting to be written by the said Ford to Messrs. Mack & Co., dated Hudson, New York, September 3, 1885, and put in evidence herein, the following statement is made or appears to be made by said Hiram N. Ford: "I find that I am able to obtain from other parties the sum specified in the article and without any further

trouble to me, but, as I agreed to take the sum from you, I am ready to fulfill."

Deponent further says that he, deponent, does not know and has never seen the said Hiram N. Ford, and prior to December 2, 1885, when said Ford gave his testimony herein, deponent did not know of the existence of such a person as Hiram N. Ford, had never in any way, shape, or manner heard of the existence of said Ford, and had never had any communication nor any business or other relations with the said Ford of any kind whatsoever; and deponent further says that so far as he, deponent, is concerned, individually and as a member of the firm of Geo. B. Cluett, Bro. & Co., the statements above quoted from the deposition of the said Mack and also from the deposition of the said Ford, in so far as they suggest or state that the said firm of Geo. B. Cluett, Bro. & Co. made any offers or promises of money to said Ford or that any member of
636 said firm has ever made or contemplated such offers or promises to the said Ford, the same are entirely false and untrue.

ROWLAND S. NORTON.

Sworn to before me this 2d day of October, 1886.

C. G. CLEMINSHAW,
Com. of Deeds for City of Troy,
County of Rens., State of New York.

Endorsed: United States circuit court, southern district of New York. George B. Cluett *et al. vs.* Horace B. Claflin *et al.* Affidavit. James A. Skilton, solicitor for complainants, 115 Broadway, New York.

637 Cluett *vs.* Claflin. Complainants' Exhibit Thomas Order, August 22, 1876. E. S. B., N. P. October 7, 1886.

(See Complainants' Printed Record, page 265.)

Geo. B. Cluett, Bro. & Co., Troy, N. Y.

Make for Mr. H. R. Thomas—

2–12 f'cy. 42
6–12 doz. No. 4327 shirts, 33

Neck, 14½ to 15½ stud, B. & F.	Length of bosom, 18.
Yoke, 17.	Length of shirt, 38.
Sleeve, 25½.	Size of cuff, ½ 9½ stud.
Breast, 37^2, 16^2.	Style of cuff, —.
Waist, 32^2.	Style of bosom, 1½ center.

Stud-holes, eyelet-holes, or buttons on bosom? 2 studs, 4½ 9.
Stud-hole or button in neck band?
Cut high, low, or medium in neck? High.
Shoulders square, sloping, or round? Trifle sloping.
☞ Open in front or back? O. F.

Remarks:

P. 51.

1 29 m
15½ P. 64.
1 80
1 B. 19 10½
Date, Aug. 22.

Aug. 27th.

Number, —.
Deliver Wed., Aug. 30, sure.

638 Cluett *vs.* Claflin. Complainants' Exhibit Cluett Bound-Bosom Shirt License to Hermann, Aukam & Co. Nov. 1, '86. T. G., Ex'r.

(See Complainants' Printed Record, page 280.)

Articles of agreement made this twenty-first day of July, in the year of our Lord one thousand eight hundred and seventy-five, by and between George B. Cluett, Brother & Co., of the city of Troy, State of New York, party of the first part, and the copartners doing business under the firm name of Hermann, Aukam & Co., of numbers 115 and 117 Franklin street, New York city, party of the second part.

First. The party of the first part, in consideration of the patent rent herein reserved and the covenants herein contained, do, according to their rights and power so to do as the assignees of Robert Cluett, hereby authorize and license the said party of the second part to manufacture, use, and vend for use the inventions contained and described in the letters patent to Robert Cluett which bear the number 156,880, and date November 17th, 1874, duly assigned to us, or in any subsequent reissue thereof, for and during the period of five years from the first day of January, eighteen hundred and seventy-five, and no longer, so far as the same or any of them are contained in the specimens of shirts and bosoms and shirt bosoms this day deposited with the licensers and marked "bound bosom, Herman, Aukam & Co.," and in the form in which said inventions are embodied in the said specimens as now manufactured or vended for use by the said party of the second part and now known by the trade-mark or name of "bound bosom" and not otherwise without the written assent of the said party of the first part.

639 Second. The said party of the first part hereby agrees as above to grant but one other license to shirt manufacturers or others to use said inventions, reserving, however, the right to make, use, and vend the same to themselves in their own business, thereby limiting the same to such use by only three several establishments so long as the covenants and promises herein made by the party of the second part are kept and performed and no longer, the party of the second part to be notified in advance of the intention or proposition to license the third party as aforesaid for

the purpose of mutual consultation and information and for no other.

Third. For each and every dozen bound bosoms made and sold separately and for each and every dozen bound bosoms and shirts complete made and sold by said licensees in which any of said inventions are embodied the patent rent shall be ten (10) cents while this license remains in force.

Fourth. Said licensees hereby acknowledge the validity of said patent rights and the novelty of the invention as embodied in the specimens above referred to or any other shirt or bosom.

Fifth. Said licensees agree to stamp each shirt and bosom or bosom before sale with the date of the letters patent herein referred to and to keep in suitable books a true account of all articles made or sold under this license and to allow said licensers or their agents for that purpose to fully examine, upon reasonable request, all departments of the manufactory of the parties of the second part and all books pertaining to said account, each dozen as aforesaid to be entered in said book or books as fast as completed or sent from the manufactory.

Sixth. Said licensees hereby agree to render said licensers or to such persons as they shall appoint to receive the same, from
640 the date hereof, monthly, on the first day of each and every month, a true and full account in writing of all bosoms or shirts and bosoms made and sold by said licensees during and between the periods as hereinabove mentioned and successively while this license continues, and on or before the twentieth day of each month following the date of such report said licensees agree to pay the said licensers or their duly authorized receiver the said patent rent for each and every dozen as aforesaid which shall have been made or sold by said licensees during the last pending month and which shall not have been before paid.

Seventh. It is understood that this license is personal to said licensees as a single firm and not in any way to be divided or assigned or shared with others without the written consent of the said licensers, but with such consent it may enure to the benefit of the legal representatives of said licensees.

Eighth. It is agreed that said licensers reserve the right at their option to terminate this license upon thirty days' written notice thereof for breach of any of the articles of the agreements herein contained on the part of said licensees or in case the whole number of said bound bosoms and shirts and bosoms which shall be made and paid for in any period of one year as aforesaid shall fall below the total amount of one thousand (1,000) dozens; otherwise it shall remain in force during the residue of the term of five years before mentioned.

Ninth. The party of the first part also hereby agrees to defend and endeavor to sustain the validity of the said letters patent in all lawful and proper ways, under the advice of counsel, with due diligence, and in case they are unsuccessful therein as to any particular goods sought to be protected under said letters patent all
641 royalties thereafter payable thereon shall be remitted with-

out prejudice, otherwise to the rights under this said license of the parties of the first part.

In witness whereof the said parties have affixed their hands and seals and executed these presents in duplicate the day and year first written.

GEO. B. CLUETT, BRO. & CO. [SEAL.]
HERRMANN, AUKAM & CO. [SEAL.]

Endorsed: George B. Cluett, Brother & Company with Herrmann, Aukam & Co. Agreement.

Cluett *vs.* Claflin. Complainants' Exhibit Herrmann, Aukam & Co. Letter of December 18, 1874. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 324.)

Herrmann, Aukam & Co., 115 & 117 Franklin St., New York.

NEW YORK, *Dec.* 18*th*, 1874.

Mess. George B. Cluett, Bro. & Co.

GENTS: We have this day sold No. 730 24 dz. lad. coll. at 1.00 p'r dz. reg., and if you wish to fill this order and allow us 10% on it you may do so at once, as the goods ought to be del. to-morrow, but will wait till Monday.

If you wish to grant us a license on your bosom and do not restrict us as to whom to sell we will take hold of it at once,
642 with the condition that no other person in the trade should be licensed by you; the term for same to be 5 years, at least.

Yours truly, HERRMANN, AUKAM & CO.

Endorsed: Herrmann, Aukam & Co., Dec. 18, 1874.

Cluett *vs.* Claflin. Complainants' Exhibit Cluett, June 7, '75, Letter. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, p. 324.)

Office of Cluetts & Burrage, men's furnishers, No. 7 Cannon Place.

TROY, N. Y., *June* 7, 1875.

Mr. James A. Skilton.

DEAR SIR: I have pretty positive information that a certain large shirt-house in New York is making my patent bound bosom. Geo. B. Cluett, Bro. & Co. have given the exclusive right to make and sell this bosom (reserving the right to make and sell it ourselves) to Messrs. Herman, Aukam & Co., Franklin St., New York. Will you please confer with Mr. Herman immediately. We must protect or abandon our patent and whatever is done in the matter we wish done through you. Mr. Herman has had considerable experience with patents and might possibly want to act a little independently of you, but we do not wish a dollar expended except with your ap-

proval. Oblige me by giving the matter your immediate at-
643 tention. While we must protect our patent, we would like it done at not too great a cost.

Yours respectfully, ROB'T CLUETT.

Cluett *vs.* Claflin. Complainants' Exhibit Cluett Letters, December 11, December 15, December 18, December 19, December 29, 1874. E. S. P., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 325.)

DEC. 11, 1874.

We are disposed to give you the only license to manufacture our pat. bound bosom for six months until July 1, 1875. We do not wish to license any other bosom-maker nor do we want to allow but one firm to make the shirt. This, of course, reserves our own use of the pat. for bosoms or shirts. We shall deem your mentioned offer of 10 cents per doz. as royalty on sales as satisfactory. Thus with the exception of the little we may do for ourselves, and possibly one large shirt manufacturer (whom we do not intend licensing to make and sell the bosom apart from the shirt), you will have the market to yourselves for one season from the present until the aforementioned date. We take this clear course in order that you may have entire confidence in the enterprise, and if you are successful we shall be ready enough to continue you as sole licensed manuf. and sellers of the patent bosom. If you wish to begin laying out plans for labels, printing, &c., the date is November 17, 1874.

If the arrange — we propose is satisfactory we will draw up license in due form. We await your answer.

Yours truly, GEO. B. C.
J. A. W.

644 DEC. 15, 1874.

H. A. & Co.

GENTS: Your favors rec'd. We would esteem it a kindness if you would inform us just what a license you wish. We wish to give you as full & liberal an arrangement as possible. Be kind enough to let us know what limits, restrictions, &c., you wish exercised on the part of either party.

Truly yours, GEO. B. C. & BRO.

DEC. 18, 1874.

GENTS: You misunderstood our letter in regard to the pat. bosom. We had no idea of restricting your sales in any particular. We simply offered you a six months' exclusive use of the patent with the exceptions mentioned—ourselves and possibly one shirt-house.

GEO. B. C. & BRO.

DEC. 19, 1874.

GENTLEMEN: We will license you to manufacture our pat. shirt bosom for five (5) years for a royalty of (10) ten cents per dozen on

sales. Sales to be reported at end of each month and amount of royalty to be paid twenty days therefrom.

We give you the exclusive right to manufacture, with the following exceptions, viz: We reserve the right to license one shirt manufacturer, who shall not be allowed to sell the bosoms separately, and also reserve the use of the patent in our own business. We trust these terms will be perfectly satisfactory.

(----------)

Yours truly, GEO. B. C. & BRO.

645 DEC. 29, 1874.

GENTLEMEN: We will have a license prepared at an early day and submit it to you. We have not yet decided whom to license as shirt manufacturers. We are not sure that we shall extend the use of the patent beyond your house & ourselves, and when we take this step we will let you know.

Anything we can do in regard to assisting Mr. Aukam will be done cheerfully. We wish you much success in the enterprise.

Yours, GEO. B. C. & BRO.

Cluett *vs.* Claflin. Complainants' Exhibit Cluett Copy Letter, December 19, 1874, and Mem. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 325.)

Office of Geo. B. Cluett, Bro. & Co.

TROY, N. Y., *Dec.* 19, 1874.

Copy of Letter of Agreement.

Mess. Hermann, Aukam & Co.

GENTLEMEN: We will license you to manufacture our patent shirt bosoms for five years for a royalty of ten cents p'r dozen on sales. Sales to be reported at the end of each month and am't of royalty to be paid twenty days therefrom. We will give you the exclusive right to manufacture, with the following exceptions, viz:

We reserve the right to license one shirt manufacturer, who shall not be allowed to sell the bosoms separately, and also reserve the use of the patent in our own business.

646 We trust these terms will be perfectly satisfatory.

MEM.—It may be seen from this paper that our plan was to make H., A. & Co. the exclusive manufacturer of the patent bosom, also to make one other party the exclusive makers of the bosom and shirt combined, with the reservation of all the advantages of the patent in our own manufacturing business.

Yours respectfully, J. W. A. CLUETT.

Cluett *vs.* Claflin. Complainants' Exhibit Cluett Postal Card, September 7, '75. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 332.)

(Post Office mark.)

Troy, Sept. 7. N. Y.

JAMES A. SKILTON, Esq.,
96 Liberty St.,
New York.

DEAR SIR: Our N. Y. licensees report the sale of 800 dozen for the past month.

I simply acquaint you with the fact; if of any use you will know it.

I had overlooked the fact that Rothschilds were customers of our licensees.

Yours, &c.,

J. W. A. C.,
Troy, 9, 7, '75.

647 Cluett *vs.* Claflin. Complainants' Exhibit Skilton Letter, June 8, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 333.)

NEW YORK, *June* 8, 1875.

Robert Cluett, Esq.

DEAR SIR: Yours of the 7th inst. on the subject of the threatened infringement of the bound-bosom patent received my immediate attention. I called on H., A. & Co.; saw Mr. H. and also a sewing girl who is working in and reporting the doings of the rival house. According to the report they are going on rapidly towards putting out an infringing shirt—woolen, not white—but have not done so yet. I stated to Mr. H. your determination to protect your patent and your direction to me to call on them as your attorney in the matter. He gets daily reports, and is to report to me to-morrow. He is anxious to strike an early and startling blow in order to discourage and nip action in the bud. I advised him that his information did not yet warrant attack, and encouraged the securing of further evidence. Mr. H. asked if they could not as licensees resist the infringement. I advised, no. He expressed desire to make you as little expense as possible, which I, of course, approved. H., A. & Co. are very watchful and sharp in the matter, and seem to think the infringers will be demoralized by vigorous action. I will watch the matter and keep you posted.

Yours, &c.,

J. A. SKILTON,
96 *Liberty St.*

648 Cluett *vs.* Claflin. Complainants' Exhibit Skilton, August 3, 1875, Letter. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 333.)

NEW YORK, *August* 3, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, New York.

SIRS: Having waited several days for the samples from H., A. & Co., I this morning called on Rothschilds & Gutmann, and notified them verbally that we were informed of an infringement they were making of your patent, and requesting them to desist, presuming that they would not knowingly trespass upon your rights. They professed a desire to avoid trespass on the rights of others; desired me to point out the articles in their stock (which I declined, saying we were thoroughly informed of what they were doing and must content ourselves with pointing out the patent infringed and exhibiting the same); and further said they were acting under a patent themselves of their own or an employee.

I had an opportunity, while waiting an interview, to examine a considerable portion of the sample boxes, but saw no shirts which were unmistakable infringement, nor even near approaches. I shall call again, when they have had time to consider, and leave a written notice. I saw the junior of the firm, the senior being engaged. He said quietly "They did not yield to threats," but showed signs of excitement, if not trepidation. I replied, "Certainly not, but if they relied on patents to protect them in manufacturing they would see the propriety of respecting the rights of others."

Yours truly, J. A. S.

The samples have not yet been received.

649 Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Rothschild Letter, August 6th, 1875. E. S. B., Sp. Ex. November 13th, 1886.

(See Complainants' Printed Record, page 333.)

AUGUST 6TH, 1875.

Messrs. Rothschilds, Bro. & Gutmann, No. 46 and 48 Leonard street, New York.

GENTLEMEN: I hand you herewith a copy of the specification and drawing of the patent No. 156,880 of Robert Cluett, for the owners of which, Messrs. George B. Cluett, Bro. & Co., I am the attorney. This patent, I am informed, your firm are preparing to infringe or have already infringed.

I am authorized to request that you respect the rights conferred on them by this patent by ceasing to use the invention described therein.

Respectfully, JAMES A. SKILTON, *Att'y.*

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Hermann Letter, August 6th, '75. E. S. B., Sp. Ex. November 13th, 1886.

(See Complainants' Printed Record, page 333.)

AUGUST 6, '5.

Messrs. Hermann, Aukam & Co., Franklin St., N. Y.

GENTS: I have delayed answering your letter, expecting every day to receive copies of the patent which have only come to hand to-day. Please find copy of specification and drawing herewith. I have called & verbally notified Messrs. R., Bro. & Gut-
650 mann before, and to-day I serve written notice upon them. Please let me know what other infringers there are & I will pay them attention.

Yours truly, J. A. SKILTON.

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Cluett Letter, August 30, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 333.)

NEW YORK, *August* 30, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, New York.

GENTLEMEN: Yours of the 28th received, &c. I called and found Rothschilds out; then called on Hermann and reported that R. had asked for license, which request I referred to you, and you in reply referred me to the understanding with him; that I had just called to ascertain on what goods R. wanted to use patent, as he had said he would not interfere with them, but had found him not in, and that I came to him to let him know and get his views squarely. He said flatly: "My position is this: I am unwilling that any other Jewish house should have a license, as they could and would hurt my trade, but I am willing an American house—naming two—should be licensed. If Rothschilds are licensed I shall throw up and quit." I then returned and found R. in and reported the result of my communications with you and H. Whereat he said he was sorry I told H., to which I replied in good faith I and my clients were bound to do so. I then said, I see no way for you unless you could buy the patent. To this he made no reply, but seemed
651 to take it to think of, and the matter will come up again, but it is necessary to treat H., as you say, in entire good faith. I shall see H. again in a day or two. I am glad you placed the whole matter in my hands. I shall both in theory and in practice protect your honor and fairness and my own.

Yours, J. A. S.

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Cluett Letter, November 20, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 334.)

NEW YORK, *November* 20, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, N. Y.

GENTLEMEN: Since writing you I have called on H., A. & Co. and asked for the evidence named in your letter, and an hour was given when I would be in. I have heard and received nothing since. There is some delicacy in my position, and I may as well explain to you now. I have been called on to act for Messrs. Rothschild, Bros. & Gutman in several shirt patent cases, not involving your rights in any way, but relating to new inventions of theirs. In these several inventions I think and they say your bound-bosom patent or a license would be important, though not indispensable to them. I have been waiting for the time when they should commence manufacturing and need to settle the question. Meantime they assure me they are not infringing your patent nor using the bound bosom. They expose their goods and proceedings pretty freely to me, and I have discovered nothing indicating their use of it.

652 They understand very definitely that I am to act at once for you if I find them infringing, and it is possible they may conceal from me. If so, their course is singular, as they see and know that I understand just where they need your invention. I may be mistaken, but I think I have made them respect your right as effectually as if I had brought suit, while I am in a position to aid you in any license or sale hereafter. I hesitated about doing any business for them until I had an explicit understanding with them in connection with your matter. As it—upon development—it seemed just in line with your suggestions, I concluded I could carry through what they wanted and be put also in favorable shape for helping you. There has been no attempt even to disturb my relation, and if there should be I should protect you and myself by proper action at once.

Nothing of this need be disclosed to Messrs. H., A. & Co., as it may excite unnecessary comment and suspicion. I think the time has come to post you on the situation, that you may know just how your matters in my hands stand for any instruction or advice, &c., you may have to give.

Yours, &c., J. A. SKILTON.

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Cluett Letter, November 29, '75. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 334.)

NEW YORK, *November* 29, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, New York.

GENTS: Yours of 26th received, &c. It is not that it is out

653 of my line to hunt up—much more to make—evidence of infringement, which is the duty of the client, but my engagements, crowding hard every business hour of every day, make it difficult and in any extended case would make it impossible for me to do it either in person or by superintendence. However, I have devoted much time in your bound-bosom case to this work, and so far without result, since on receiving your letter I have seen H., A. & Co. and have another explicit statement, but no infringing article placed in my hands to form judgment or collect expert testimony on. Still I have made arrangements with my Brooklyn "gents' furnishing" man to go to R. Bro., G. S. & Co. and buy some of the shirts said to contain your invention, and if I find they are infringing I shall, as I understand your wishes, take steps to commence an action and bring them to terms. They will then be likely to ask the terms of settlement, and they know what H., A. & Co. pay; but I will refer them to you direct for any business negotiation. I now expect to go to Hartford, Connecticut, to-morrow, and be engaged there and in Springfield in several cases all the week. I therefore may not be able to do anything further until next week. Write to me here as usual.

Yours, J. A. SKILTON.

654 Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Cluett Letter, December 11, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 334.)

NEW YORK, *December* 11, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, New York.

GENTS: I have yours of the 6th instant and congratulate you on your success with the infringing parties. I have not been able to get any of Rothchild's shirts with your invention in them. I now expect to succeed on Monday next; at least I am promised action.

Yours, J. A. SKILTON.

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Herrmann Letter, December 15, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 334.)

DEC. 15, '5.

Messrs. Hermann, Aukam & Co.

GENTS: I have made several attempts to purchase the "Moleskin" shirt from R., Bro. & Gutmann through my furnishing man in Brooklyn, & I am at last compelled to give it up. He says he could not find any such shirt among the samples of the house, & when he called for & described it they said they had none such.

655 I think you should either have some one buy one or send for one of the Texas samples. Please act as promptly as you can.

Yours, J. A. SKILTON.

Cluett *vs.* Claflin. Complainants' Exhibit Skilton-Cluett Letter of December 21, 1875. E. S. B., Sp. Ex. November 13, 1886.

(See Complainants' Printed Record, page 334.)

NEW YORK, *December* 21, 1875.

Messrs. Geo. B. Cluett, Bro. & Co., Troy, New York.

GENTLEMEN: My furnishing-goods man from Brooklyn went to R., Bro. & Gutmann's store, after very careful instructions from me, but utterly failed in getting hold of the shirts having your invention in them. He tells me he searched their samples; then called for them by the name given me by H., A. & Co., and finally showed them what he wanted. He may not have shown all the skill in the world, but he did as well as he could. H., A. & Co. have another way, and I have notified them of my failure. If I had the time I might manage it myself somehow, but I cannot get the time to do it.

Yours, &c., J. A. SKILTON.

656 Cluett *vs.* Claflin. Complainants' Exhibit Cluett File and Contents, Application February 17, 1873. E. S. B., Sp. Ex. November 17, 1886.

(See Complainants' Printed Record, page 371.)

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper, contents, and drawing in the matter of the application of Robert Cluett, filed February 17th, 1873, for improvement in shirts.

In testimony whereof I, M. V. Montgomery, Commissioner of Patents, have caused the seal of the Patent Office to be [SEAL.] affixed this 5th day of October, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

M. V. MONTGOMERY,
Commissioner.

657 $15 H.
1 3

Petition.

To the Commissioner of Patents of the United States of America:

The petition of Robert Cluett, of Troy, in the county of Rensselaer and State of New York, respectfully represents—

That your petitioner has invented a new and useful improvement in shirts which he verily believes has not been known or used prior to the invention thereof by your petitioner. He therefore prays that letters patent of the United States of America may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same upon the terms and conditions expressed in the act of Congress in that case made and provided, he having paid fifteen dollars into the Treasury of the United States and otherwise complied with the requirements of said act; and he hereby authorizes O. D. Munn and A. E. Beach, of the firm of Munn & Co., of the cities of New York and Washington, or their accredited agents to act as his attorneys in presenting the application and in making all such alterations and amendments as may be required and to sign his name to the drawings.

ROBERT CLUETT.

658 *Oath.*

COUNTY OF RENSSELAER, } ss:
State of New York, }

February,
On this twelfth day of [January,]* 1873, before the subscriber, notary public in and for said county, personally appeared the above-named Robert Cluett and made solemn oath that he verily believes himself to be the original and first inventor of the within-described improvement in shirts, and that he does not know or believe that the same was ever known or used, and that he is a citizen of the United States.

GEO. A. STONE,
Notary Public, Troy, N. Y.

659 To all whom it may concern:

Be it known that I, Robert Cluett, of Troy, in the county of Rensselaer and State of New York, have invented a new and useful improvement in shirts; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawing, forming a part of this specification, in which—

[In the drawing]*
The figure is a front view.

Erased Mar. 23, '73. Insert A.

The invention consists in disconnecting the bosom entirely from yoke A and shortening its line of seam with the band so as to prevent the bosom from being rumpled by the motion of arms and shoulders.

spring or shoulder seam

* Words enclosed in brackets erased in copy.
Words and sentences enclosed between rules erased in copy.

spring or shoulder seam;
In the drawing, A represents the bosom; B, the yoke A C, the neck band, and D, the body of the shirt.

The bosom A is rounded and inclined inwardly as it approaches spring or shoulder seam
the band C so as to escape all necessary connection with the yoke A A'

Not shown on drawing. B on either side. The dotted lines A in drawing show the direction of seam on body D in ordinary shirts, whereby the bosom forms a necessary connection with spring or shoulder seam
the yoke A and fastens to band on the turn thereof. The disad- spring or shoulder seam
vantage of this mode of connecting the bosom and yoke A consists in the wrinkles which are caused in the bosom by the motion of shoulder and arm. Still further to cause the bosom always
660 to present that smooth and unruffled aspect so gratifying to the eye, and also to prevent the uprising of the bosom, my bosom is seamed to the band only on a comparatively short line, which is but little affected by the vibratory motions of the neck, shoulders, or arms. (Over.)

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is—

A shirt having a and
[The]* A bosom A set into the body D of a shirt A so as to neck
converge inwardly toward the A band C, spring or shoulder seam
Erased —— 27, '73. avoid entirely the yoke A B, and to be joined at the top
Insert B. A [seamed]* to the band only on a comparatively short line, as and for the purpose described.

ROBERT CLUETT.

Witnesses:
JOHN O. MERRIAM.
GEO. A. STONE.

Endorsed: Rob't Cluett. Spec., &c. Feb. 17, 1873. $\frac{13}{80}$. Patent Office, Feb. 17, 1873, U. S. A. No. 1.

661 18
Compared.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *March* 18, 1873.

Robert Cluett, care Munn & Co., Washington, D. C.:

Please find below a communication from the examiner in charge in relation to your application for a patent for an improvement in shirts, filed complete Feb. 18, '73.

Very respectfully,
M. D. LEGGETT,
Commissioner.

* Words enclosed in brackets erased in copy.

Examiner's room No. 5.

A preliminary examination of the above shows the drawing to be wanting in parts referred to in specification, as indicated by pencil notes upon the margin. Further action is therefore postponed until corrections are made.

WM. BURKE, *Ex.*,
Per H. BLANDY.

Endorsed: Rob't Cluett. Off. letter. Mar. 18, 1873. $\frac{135}{80}$. No. 2.

662 No. 1.
25
Compared.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *March* 24, 1873.

Robert Cluett, care Munn & Co., Washington, D. C.:

Please find below a communication from the examiner in charge in relation to your application for a patent for an improvement in shirts, filed Feb. 17, '73.

Very respectfully, M. D. LEGGETT,
Commissioner.

Examiner's room No. 5.

The above-named application has been examined and a substantial anticipation found in the patent to George B. Perkins, June 11, 1867.

The application is therefore rejected.

WM. BURKE, *Ex'r*,
Per H. BLANDY.

Endorsed: Robert Cluett. Rej. Mar. 24, 1873. $\frac{136}{80}$. No. 3.

663 WASHINGTON, D. C., *Mar. 26th*, 1873.

Hon. M. D. Leggett, Comm'r of Patents.

SIR: I hereby amend the specification in my application for letters patent for improvement in shirts, filed Feb'y 17th, 1873, by erasing the statement of invention and subsituting:

The invention consists in a new mode of applying a perma-
A. nent bosom to the body of a shirt, as hereinafter fully described and claimed.

Also by erasing the claim and substituting:

The bosom A, secured permanently in body D by curved
B. seams and to the band C by a short cross-seam, as and for the purpose described.

ROBERT CLUETT,
Per MUNN & CO., *Attorneys.*

Endorsed: Robert Cluett. Am'd. Mar. 27, 1873. $\frac{138}{80}$. A am't B. Patent Office, Mar. 27, 1873, U. S. A. 4.

664 29
Compared.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *March* 28, 1873.

Robert Cluett, care Munn & Co., Washington, D. C.:

Please find below a communication from the examiner in charge relating to your application for a patent for an improvement in shirts, filed Feb. 17, 1873.

Very respectfully,

——— ———,
Commissioner.

Examiner's room No. 5.

The application above referred to has been re-examined as amended March 27, 1873, and is still thought to be anticipated in the reference before cited, namely, patent to George B. Perkins, June 11, 1867.

The application is therefore again rejected.

WM. BURKE, *Ex'r*,
Per H. BLANDY.

Endorsed: Rob. Cluett. Rej. Mar. 28, 1873. $\frac{134}{80}$. No. 5.

665 To the Commissioner of Patents:

The undersigned, having on or about the 17th day of February made application for letters patent for an improvement in shirts, accompanied by a power of attorney to Munn & Co., of New York, authorizing them to prosecute the same, hereby revokes the power of attorney so given, and hereby appoits James A. Skilton, of No. 25 Nassau street, New York, his attorney, with full power of substitution and revocation, to prosecute said application, to make alterations therein, to amend the same, to receive the patent, and to transact all business in the Patent Office connected therewith.

Signed at New York city, State & county of New York, this 31st day of March, A. D. 1873.

ROB'T CLUETT.

Endorsed: Rob't Cluett. Power of att'y. Ap'l 1, '73. $\frac{134}{80}$. U.S. Patent Office, Apr. 1, 1873. No. 6.

666 Hon. M. D. Leggett, Commissioner of Patents.

SIR: In the matter of the two applications of Robert Cluett in shirt bosoms filed Feb. 17 and April 8, 1873, please allow me to withdraw the application of Feb. 17, in accordance with the suggestion of the examiner and the decision of the Commissioner in the *ex parte* appeal case between these two applications, and abandon the same, intending thereby to place myself in a position to rely on my second application of April 8, 1873, in regard to which I respectfully ask for a reconsideration and re-examination thereof.

Thereby abandon and ask leave to withdraw as above.

ROBERT CLUETT.

Troy, N. Y., July 24th, '73.

Endorsed: Rob't Cluett. Aband. July 26, 1873. $\frac{135}{80}$. Patent Office, July 26, 1873, U. S. A. No. 7.

667 $\frac{135}{80}$.

U. S. Patent Office.

Application of Rob't Cluett. Filed Feb'y 17, 1873.

Contents of this file.

1. Application.
2. Letter, Mar. 18, 1873.
3. Rej., Mar. 24, 1873.
4. Am'd, Mar. 27, 1873.
5. Rej., Mar. 28, 1873.
6. Power of att'y Ap'l 1, '73.
7. Aband., July 26, 1873.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.

Endorsed: 3 apparel, 38 shirts & bosoms. Apparel, shirts and bosoms.

668 √1873. $\frac{135}{80}$, Burke.

No. —.
Robert Cluett,
of Troy,
County of Rensselaer,
State of New York.
Shirts,
Abandoned.
Rec'd Feb'y 17, 1873.
Petition, " " "
Affidavit, " " "
Specification, " " "
1. Drawing, " " "
Model, " 18, "
Cert. dep.
1. Cash, $15, Feb'y 17, 1873.
Add'l fee cert.
" " cash.
Examined.
49—174

2. Issue.
4. Patented — 18.
Recorded vol., page.
Circular.

Munn & Co.*
James A. Skilton,
No. 25 Nassau St., Present.*
New York city.
1873.

Letter, March 18, '73.
Rej., March 24, '73.
Rej., March 28, '73.
Abandoned, July 26, 1873.
A. C. W.
S. A. P.

Endorsed: 19826 D, '86.

669 Cluett *vs.* Claflin. Complainants' Exhibit Sinzheimer, Hagedorn & Newman List. E. S. B., Sp. Ex. November 18, 1886.

(See Complainants' Printed Record, page 380.)

Make of shirts.

United we stand, divided we fall.
Automatic.
Boss.
Royal.
Elite.
Crown Prince.
Park.
Reinforced.
Camel Back.
Fountain.
Gilt Edge.
New Philadelphia.
Progress Mark, B. B. Co.
Acorn.
1,000, or N. Y. M. muslin and four-ply patent facings, welted edge.
Our Novelty.
Surprise.
The Best.
Our Leader.
The Park.
Dauntless.

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* Erased in copy.

670 Cluett *vs.* Claflin. Complainants' Exhibit Myers-Cluett Interference, File Wrapper and Contents. E. S. B., Sp. Ex. November 20, 1886.

(See Complainants' Printed Record, page 414.)

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the interference, James H. Myers *vs.* Robert Cluett, for improvement in shirt bosoms.

In testimony whereof I, R. B. Vance, acting Commissioner of Patents, have caused the seal of the Patent Office to be affixed [SEAL.] this 10th day of November, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

R. B. VANCE,
Acting Commissioner.

671 In the Matter of the Interference—

ROBERT CLUETT *vs.* J. H. MYERS.

Shirt bosoms. Now pending.

Hon. M. D. Leggett, Commissioner of Patents.

SIR: In the above-named case I am informed that partially completed negotiations between the parties are now progressing & have delayed the arrival of Robert Cluett here, which was appointed for to-day. Of these matters I am largely informed by telegraph and consequently imperfectly so. In view of the above-named facts I respectfully ask an extension of the time for filing the preliminary statements on each side for ten days further.

Washington D. C., Aug. 28, 1874.

JAMES A. SKILTON,
Att'y for R. Cluett.

Endorsed: Myers *vs.* Cluett. Cluett requests extension of time for filing pre. st'm'ts. To be granted Aug. 31st if pre. statement does not arrive before that time. M. S. N. Patent Office. Aug. 28, 1874.

672 Examiner's room No. 8.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Aug.* 31*st*, 1874.

James H. Myers, care A. F. Park, Troy, N. Y.; Rob't Cluett, care Jas. A. Skilton, No. 25 Nassau street, New York city.

(*Interference.*)

MYERS *vs.* CLUETT.

(Subject: Shirt bosoms.)

The time for filing preliminary statements in the above-named interference is hereby extended to include September 10th, 1874.

MARCUS S. HOPKINS,
Examiner of Interference.

Endorsed: Myers *vs.* Cluett. Aug. 31st. Time for filing P. S. ext'd to Sept. 10th, '74.

673 In the matter of the interference between the application of Robert Cluett for an improvement in shirt bosoms and the letters patent of J. H. Myers, No. 153,367, granted July 21, 1874.

Preliminary Statement.

STATE OF NEW YORK, }
County of Rensselaer, } *ss:*

The above-named applicant, Robert Cluett, of Troy, New York, being duly sworn, deposes and says that he conceived of the invention described in his application filed April 8, 1873, at some time between February 17, 1873, the date of a previous application, and April 8, 1873, but is not at this time able to fix the precise day, and that the same was embodied in various modified forms by him & under his instructions between the dates of Feb. 17, 1873, and March 15, 1874, and June 1, 1874, & shirts containing the same were made and sold by the concern of which deponent was a member before April 8, 1873, and as first described in said application of April 8, 1873, and as described therein on or before March 15, 1874, under the immediate direction of J. H. Myers as to the manufacture, to whom applicant gave careful instructions how to make said shirts down to about June 1, 1874.

ROBERT CLUETT.

Sworn to and subscribed before me this 7th day of September, 1874.

[L. S.]

C. H. VAN AMAN,
Notary Public, Troy, N. Y.

674 Endorsed: Patent Office, Sept. 10, 1874, U. S. A. Cluett's pre. st'm't. Rec'd, filed, & sealed Sept. 10, 1874. W. H. D.

Hon. M. D. Leggett, Commissioner of Patents, Washington, D. C.

SIR: In the matter of the interference Robert Cluett *vs.* J. H. Myers, shirt bosoms, I respectfully ask that the time for filing statements be still further extended to and including the 15th inst. It is supposed and, I believe, stipulated that Myers will take no action before that time, & therefore I ask the extension without notice.

Sept. 8th, 1874.

Respectfully, J. A. SKILTON, *Att'y.*

Endorsed: Myers *vs.* Cluett. Shirt bosoms. Cluett's counsel requests further extension of time (from Sept. 10) for filing pre. st'm't. Cluett's pre. st'm't rec'd the same day as above (Sept. 10th). Myers' pre. st'm't not having been rec'd & time having expired on
675 the 11th, case settled on the record in favor of Cluett, Sept. 12th. W. H. D. Patent Office, Sept. 10th, 1874, U.S. A.

Examiner's room No. 8.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Sept. 12th*, 1874.

James H. Myers, care A. F. Park, Troy, N. Y.; Robert Cluett, care James A. Skilton, 25 Nassau St., N. Y. city.

JAMES H. MYERS *vs.* ROBERT CLUETT.

Interference.

Subject: Shirt bosoms.

(Notice of decision communicated to parties in blank 16.)

In the matter of interference above referred to, upon which an examination was appointed for the 10th day of September, 1874, the question of priority of invention has been decided in favor of Cluett.

Limit of appeal, twenty days.

MARCUS S. HOPKINS,
Ex'r of Int'f's.

Endorsed: Notice of decision. Myers *vs.* Cluett. Sept. 12, 1874.

676 In the U. S. Patent Office.

In the matter of the interference between the patent of James H. Myers and the application of Robert Cluett—shirt bosom. } Before the examiner of interferences.

James H. Myers, upon whom rests the burden of proof in this interference, having failed to file the preliminary statement required by office rule 53, Cluett is entitled to an immediate adjudication of the case upon the record.

Myers filed his application June 15th, 1874, and letters patent were granted to him July 21st, 1874. Cluett filed his application April 8th, 1873.

Priority of invention is therefore awarded to Robert Cluett in accordance with the provisions of office rule 57.

MARCUS S. HOPKINS,
Examiner of Interferences.

W. H. DOOLITTLE, *3d A. Ex.*

Sept. 12th, 1874.

Endorsed: James H. Myers *vs.* Robert Cluett. Shirt bosoms. Decision of intf. examiner. Sept. 12th, 1874. Recorded vol. 5, page 439.

677 221.

U. S. Patent Office.

Interference.

MYERS *vs.* CLUETT.

Shirt bosoms.

Statement, Aug. 31st, 1874.
" Sept. 10th, "
L A 1 m act.
Page 120.

L A 1 m act.

120 1874. 277.

Interference.

No. 5009.

JAMES H. MYERS,
Patent,
vs.
ROBERT CLUETT.
"Shirt bosoms."

L A 1 m. 1874.

Actions.

Statement, Aug. 31, '74.
Aug. 31, P. S. extended until Sep. 10 to 12.
Sep. 12, '74, decided in favor of Cluett & p. n. Limit of appeal, 20 days.
L. B. R.
C. K. K.

Endorsed: 22374 D., '86.

678 Cluett vs. Claflin. Complainants' Exhibit Robert Cluett Amendment Before Filing. J. M. Landon, U. S. Com'r. November 24, 1886.

(See Complainants' Printed Record, page 476.)

Hon. M. D. Leggett, Commissioner of Patents:

SIR: In the matter of the application of Robert Cluett for letters patent in shirt bosoms (bound bosom), filed herewith, I amend before filing as follows:

1. By adding, after the description of figure 14, "Figure 15 shows in front view and full lines a bosom with straight sides, tapered in at the bottom & in dotted-line extension thereof a square bosom, each bound like the others."

I use either straight or bias cut binding & apply it to bosoms of any shape, round or square.

2. By striking from claims 1 & 2 the words "bias-cut."

Washington, D. C., Aug. 8, 1874.

ROBERT CLUETT,
By his att'y, JAMES A. SKILTON.

Endorsed: Robert Cluett. Amendment before filing. Shirt bosom. Aug. 8, 1874. Filed Aug. 10, '74.

679 Cluett vs. Claflin. Complainants' Exhibit Tim, Wallerstein & Co.'s Circular. J. M. Landon, U. S. Com'r. November 24, 1886.

(See Complainants' Printed Record, page 477.)

Special information for the benefit of the trade against threatened suits for infringement on an alleged patent for a bound-bosom shirt.

We have received a copy of the printed circular which, a few days ago, we forewarned the trade would be issued by Geo. B. Cluett, Bro. & Co., and we are now constrained to reply thereto for the benefit of the trade in general and on account of several inquiries made direct to us by our customers. We sincerely hope that the trade will not be intimidated by any of the threats contained in that circular, for upon a careful reading it must be evident that it has been introduced and circulated before the public as an advertising medium to compete with our house (which has been repeatedly acknowledged to be one of the largest in the shirt, collar, and cuff trade); and as evidence of this fact we herewith copy a final part of their circular, which reads:

"Of one thing the trade may feel assured, that in buying and selling our bound-bosom shirt, with our stamp thereon, they are entirely safe and in no danger of innocently infringing any patent or of being in any way asked to settle for infringement of any kind."

How absurd and ridiculous to pretend to act in good faith and then add to a notice such advertising language and enclose a busi-

ness card, as has been done in this case, thus telling one of the self-evident fact that if he buys the patented article from the patentee he cannot be sued.

Under such circumstances to endeavor to threaten a trades-
680 man is preposterous; for if, as their circular alleges (but of which we have no evidence) any persons settled for any infringement of this alleged patent of a bound-bosom shirt, they must have acted under ignorance of their own rights without investigation and perhaps being unable or unwilling to bear the expense of litigation. We have, however, firmly determined not to pay Cluett, Bro. & Co. one cent, but we have compelled them to bring suit against us in order that we may contest the validity of their alleged patent, which we are determined to do at all hazards and costs for our own benefit and for the protection of the trade in general.

We have employed counsel, who, in conjunction with ourselves, have thoroughly investigated this matter for months past, and we are now in possession of such facts and proof as will convince the court beyond the iota of doubt, in the determination of our suit, that the Cluetts are not the original inventors of a bound-bosom shirt in any form.

We would state to the trade that when the Cluetts presented their petition for the patent in question to the proper Department at Washington a patent was refused on the ground that there was no novelty in their application, but they added a few immaterial amendments and thereupon obtained a patent; but we still deny most emphatically that they were the first inventors of a bound-bosom shirt, and repeat that we have such reliable, unimpeachable, and undeniable proof in our possession of the truth of this assertion that we are not only advised by our counsel that the Cluetts have subjected themselves to an action for damages for intimidating
681 our customers, but we also feel assured they will sadly regret the course they have pursued to advertise their business.

We beg our customers to disregard this circular issued by the Cluetts or any other they may publish, for we will fully and amply protect, indemnify, and save harmless, in writing, our customers against all damages and suits which may be recovered or brought against them or any of them for the purchase of our shirts, as we have done with Messrs. H. B. Claflin & Co., of New York city, who likewise were threatened by the Messrs. Cluett, and who, being indemnified by us, have continued to purchase our shirts.

In conclusion, we would state that we have issued this circular in order to inform our own customers that we will furnish them at any time a written guarantee to protect them against any suit that Geo. B. Cluett, Bro. & Co. may bring against them for the purchase of our shirts, and, further, in order to inform the trade in general that we are in possession of such information as will destroy the validity of the alleged patent in question of Geo. B. Cluett, Bro. & Co., which information we are ready to furnish to any party or parties in the trade against whom Geo. B. Cluett, Bro. & Co. have instituted proceedings.

TIM, WALLERSTEIN & CO.

Troy, N. Y., July 21, 1885.

682 Cluett *vs.* Claflin. Complainants' Exhibit Tim Letter of December 21, 1886. Dec. 22, '86. T. G., Ex'r.

(See Complainants' Printed Record, page 512.)

David Tim, counsellor-at-law, 25 Chambers street.

NEW YORK, *December 21st*, 1886.

J. A. Skilton, Esq., N. Y.

DEAR SIR: Will you please inform me by bearer what hour you wish to go on with the testimony, as I understood you to say that you could not proceed longer than 12 o'c., and I am inclined to think Mr. Ballin will not be at the meeting in time, and it would not pay to go on for half an hour.

I write this so that you or myself shall not be compelled to waste our time in waiting.

If you will fix the hour and day I will send Mr. Ballin word of the same in case he is not present now at the meeting.

Yours truly, DAVID TIM.

(Over.)

If the witness is present please send word by bearer.

683 Cluett *vs.* Claflin. Complainants' Exhibit Mambert-Mack Admission. Jan'y 25, '87. T. G., Ex'r.

(See Complainants' Printed Record, page 566.)

U. S. Circuit Court, Southern District of New York.

GEO. B. CLUETT *et al.*
vs.
ED. ELISHA MACK *et al.*
} In Equity.

It is admitted by the solicitor and by the counsel for the defendants herein, on behalf of defendants, that the firm of Mack & Co., of which Ed. Elisha Mack and Wm. M. Ticknor, are the partners, have a verbal agreement with Isaac H. Mambert, of Troy, New York, who is in the employ of said firm, that said firm shall have the exclusive right to manufacture and sell shirts made on the plan shown and claimed in the letters patent of the United States, No. 219,284, dated September 2, 1879, and granted unto said Isaac H. Mambert, so long as said Mambert shall remain in the employ of said firm, and that in case said Mambert shall at any time cease to be employed by said firm, then and during the entire period of such non-employment the said firm shall have a shop right to make and sell shirts under said letters patent.

New York, January 25, 1887.

DAVID TIM,
Solicitor for Defendants.

684 Cluett *vs.* Claflin. Complainants' Exhibits Ten Mack Letters and Thirteen Skilton Letters. E. S. B., Sp. Ex. February 17, 1887.

(See Complainants' Printed Record, page 567.)

JULY 7, 1885.

Messrs. Mack & Co., Nos. 63 & 65 Hudson Ave., Albany, N. Y.

GENTLEMEN: My clients, Messrs. Geo. B. Cluett, Bro. & Co., have called my attention to the fact that you are using the word "Crown" in connection with your collars and in your collar trade, and, at their request, I hereby notify you that they claim that word as their trade-mark.

In the absence of any evidence to the contrary I presume that you have begun to use the word inadvertently, as unaware of the fact that its use as a trade-mark belongs to some one else, and that on receiving this notice you will not only abandon such use, but will also notify me of the fact by an early mail. For your information further I send you one of their "heads," in which the word is used as a trade-mark.

Very truly, J. A. SKILTON.

ALBANY, N. Y., 7, 8, 1885.

James A. Skilton, Esqr., 115 Broadway, N. Y.

D'R SIR: Believing yours of yesterday to be dictated through misapprehension, we take pleasure in promptly replying.

We have been manufacturing paper collars (so called), not cloth-faced paper goods, for 20 years or more, and the greater part of that time, we think, have labeled one style of collar "Crown," of
685 which the Mess. Cluetts have been purchasers for quite a long time. We took no exceptions to their use of the name for their linen collars because we never expected to make that line of goods, but the varying conditions of general trade the past few years has made it necessary for us to add to our manuf'r's linen collars & cuffs.

Knowing the Cluetts claimed "Crown" as a trade-mark for their linen collars & cuffs, we have strictly avoided using it.

Yours very truly, MACK & CO.

JULY 14, 1885.

Messrs. Mack & Co., Albany, N. Y.

GENTLEMEN: In reply to your letter of the 7th inst. on the subject of the "Crown" trade-mark: The view in which my previous letter was written, which has been confirmed by further evidence furnished me since the receipt of your reply, was that the true order of occurrences was the reverse of that stated as your impression.

In other words, my clients first used it. You then took it up and applied it to cloth-faced paper collars, and now you are using it in such close connection with your new trade in linen collars as to

trespass on our rights; and, even if your dates are correct, this last use invades the right (ours) which you concede as to linen collars.

In addition to what I previously called your attention to I have now before me one of your circulars, in which you give prominence to words which at least show an inclination to follow up my clients and their business. I refer to the words "bound bosom" in a shirt circular. Geo. B. Cluett, Bro. & Co. first adopted that term for their shirt trade, and patented the first bound-bosom shirt. They
686 are now engaged in pursuing all infringers of those letters patent, and are entitled to control the trade-mark use of those words.

Here are at least the appearances of evil which it is at all times best to avoid.

My clients claim to have reason to think that some of their customers may be deceived into accepting your goods for theirs, whether you originally planned that result or not, and therefore I am compelled to ask whether you will decide to continue the practice complained of or to desist therefrom.

Very truly yours, J. A. SKILTON.

ALBANY, N. Y., 8, 3, 1885.

Jas. A. Skilton, Esqr., att'y for Mess. Cluett, Bro. & Co., 115 Broadway, New York.

D'R SIR: The writer finds on his return from a few weeks' recreation in the mountains your esteemed letter of July 14th, and in reply to same would ask you to kindly mail to us the date or number of your certificate of registration of "Crown" trade-mark, also of "Bound Bosom" trade-mark, that we may — some data at hand by which to get copies of same.

It has ever been our aim & principle of business to respect others' rights, legally and equitably, and we certainly have no "inclination to follow up your clients."

If we find on getting copies of certificates that your rights as claimed we are in the least infringing we shall promptly and gladly stop.

Yours very truly, MACK & CO.
MACK.

687 AUG. 10, 1885.

Messrs. Mack & Co., Nos. 63–'5 Hudson Ave., Albany, N. Y.

GENTLEMEN: In reply to your favor of the 3d inst., which I find on my return: As I am advised, we do not depend on certificate of registration, and therefore I cannot meet your requirements. It is within my own knowledge, however, that the Cluetts go back of ten years in their use of both trade-marks, and I am informed that your use on paper collars is much short of that period and in connection with linen collars still shorter. In this state of the matter do I understand that you prefer to have us test our rights by suit to yielding to our request that you discontinue the use of these trade-marks? Litigation by letter is not likely to be satisfactory.

Yours truly, J. A. SKILTON.

ALBANY, N. Y., *Aug.* 13*th*, 1885.

Jas. A. Skilton, Esqr., "att'y for Geo. B. Cluett, Bro. & Co.," 115 Broadway, N. Y.

D'R SIR: In reply to yours of the 10th we would say that we have undoubted proof of our use of the word "crown" in connection with a design on labels used on our collar and cuff boxes as a trade-mark for the goods for a period dating very much farther back the time specified (10 years) in your letter. We believe ourselves to be the first to use the word & design in connection with collars & cuffs, and that in such use of it on "paper collars & cuffs" we are in no manner infringing the rights of the Messrs. Cluett, your
688 clients, who probably never contemplated its use on paper goods or of taking exceptions to such use of it by others; but as you have denied our friendly and very proper request for "the date or number of your certificate of registration," we are ignorant of what your legal claims are. We made that request in good faith and for the purpose of saving time and to facilitate an early settlement of the matter, the only records to our search for the purpose being at the State library, and that is now closed for repairs.

We are innocent of any intent and ignorant of any fact of interfering with your clients' business, and have ever held none but the most friendly disposition towards them, and we would again say we believe your clients misapprehend our use of the word "crown" and wrongly judge our motives, and we repeat that we have strictly avoided using it in connection with linen collars & cuffs and have never so used it. Waiving all technicalities or questions as to priority of use, we are willing to execute an obligation to your clients never to use the word "crown" in any connection on linen goods or for the purposes of sale of such goods.

If your clients are not willing to adjust the matter in this manner, but prefer to settle the question of entire and absolute control by the fact of priority of use, in that case we recommend that it be decided by a disinterested person, mutually agreed upon as referee, and under stipulation duly executed that if the facts prove your clients to have first used the word we will abandon its use on collars & cuffs, and if the facts prove that we first used the word your clients are to abandon its use on collars and cuffs.

We ask you to present this statement & proposition to your clients and ask their consideration of the same.

As to the words "bound bosom," we think there is no cause for controversy with us, as we only use it in a descriptive man-
689 ner, and necessarily so by reason of the peculiar make of the goods—in the same manner and for same purposes that we say "inseamed bosom," "double-stitched bosom," or "hemmed flaps."

Yours very truly, MACK & CO.

Sent in type-writing.
Trade-mark. Aug. 19, 1885.

Messrs. Mack & Co.

Gentlemen: Your letter of the 13th inst. having been submitted to my clients as requested, I am authorized to say that we decline to accept the reference to a third party, as you propose. It is hardly necessary to give reasons, but it would hardly seem either wise or worth while to submit what you concede already as to linen collars and cuffs. As to the other proposition, there is a seeming ambiguity in the terms you use which might still leave the matter unsettled, since the word need not be used "on linen goods," and yet be so used as to injure our trade, as we use it in many places *places*, off linen goods. As to the "purposes of sales of such goods," under the circumstances your "purposes" might be difficult to prove, while the effects on our trade might be apparent. Consequently such a settlement would be very likely not only not to settle anything, but, on the contrary, to seriously complicate the matter and lead to more expensive litigations in the future.

My clients are spending large sums in advertising and making their trade-mark known. You step in and by entering the linen-goods trade reach their customers and appropriate the reputation they have made.

So long as you confined your business to strictly paper collars they may not have been injured. The new trade reaches a new class of people who know "Crown" goods as a certain make
690 which they prefer. The situation is of your own making. One solution, logical and just, would be for you to retire from the linen-goods trade so long as you use the word "crown" in your ads. Another, and the best, would be the abandonment of the word on all collars and cuffs, leaving you to work up your own trade and trade-marks in both lines of goods, with a fair and open field. In fact I can see no way to prevent injury, collision, and interference and to keep the legal peace if any settlement is made which leaves you the right to use the word on or in any way whatever in connection with the collar and cuff trade.

I have to say, in addition, that I am authorized to commence suit against you on the broad right, but I prefer to dispose of the matter out of court if it can be done, and I am still open to any proposition which will save my clients harmless in the matter; but it must be upon some better plan than you have yet suggested. I shall expect to hear from you within a week.

Very truly yours, J. A. SKILTON.

Albany, N. Y., 8, 20, 1885.

J. A. Skilton, Esqr., att'y for Geo. B. Cluett, Bro. & Co.

D'r Sir: In reply to yours of 19th we would state that, notwithstanding we feel and believe that the complaint and stipulations of your clients as set forth are unreasonable and groundless, especially so in view of the fact that they have repeatedly purchased and sold our Crown collar, and that we now hold a contract (still in force)

signed by them years after we commenced making linen collars, stipulating that they "will not sell the 'Crown collars' made by Mack & Co." below a certain price, and without further pres-
691 ent criticism as to their good faith or the motives animating their demand, we are disposed to do anything reasonable to satisfy them. A rose by any other name may be as sweet; and by making necessary explanations to our customers it may not lessen our sales of that collar to change its name, but we have a stock of goods already labelled up and labels and electro-plates of no small value on hand; besides, to stop shipping at once, delaying all orders, would be to unnecessarily discommode customers and a needless drawback. If, therefore, you are willing to settle the matter by our immediately stopping the circulation by us of all matter advertising the "Crown" collar, and discontinuing the name "Crown" on collars and cuffs and on the box labels by the 1st to the 15th of next month (or sooner if new plates & labels are ready), using our present label, the same we have used the past ten years, to cover current shipments of goods which may be needed by the trade before that time, we are disposed to, and will, in good faith comply to such settlement.

Your reply by return mail is desired, as the writer wishes to leave the city Saturday for an extended vacation.

Yours very truly, MACK & CO.

Trade-mark, "Crown."

AUG. 21, 1885.

Messrs. Mack & Co., Nos. 63 & 65 Hudson Ave., Albany, N. Y.

GENTLEMEN: Your favor of Aug. 20, in reply to mine of the 19th, has been duly received and its contents noted, and my reply is that I accept your proposition on behalf of my clients, my un-
692 derstanding being that in accepting the terms of my letter of the 19th you agree to abandon the use of the word "crown" on all collars and cuffs, paper or linen, or in any way whatever in connection with the "collar and cuff trade" in future, except as to the "stock of goods already labelled up," which may be shipped to cover current orders from this date to Sept. 15th without prejudice to our rights, and not after that date, the restriction and abandonment of the use of the word "crown" in all advertisements of whatever kind to be immediate. I regret that you suffer any loss in this matter, but your candor and good faith will be appreciated by my clients as it is by myself personally.

Very truly yours, ——— ———.

AUG. 21, 1885.

Messrs. Mack & Co., Albany, N. Y.

GENTLEMEN: Knowing of no reason myself why your proposition should not be accepted at once, I have sent my reply through the Cluetts for their approval and transmission to you to-morrow, as requested, if they also approve. This in preliminary reply to yours of yesterday.

Very truly yours, J. A. SKILTON.

ALBANY, N. Y., *Aug.* 25, 1885.

Messrs. G. B. Cluett, Bro. & Co.

GENTLEMEN: Our Mr. Mack has requested us to submit to you *to* the enclosed label, showing change contemplated to comply with the letter of agreement. If the same will be satisfactory to
693 yourselves it will save us a very considerable expense, both in plates and in the engraving, as the word "crown" can be mortised out and "king" engraved in its place without consuming much time. As we will be subject to the loss of a large stock of labels on hand and other consequent drawbacks and expenses, we trust you will express your satisfaction in this change. We desire an early reply, that no time may be lost in getting stock ready for shipment under the new label.

Yr.,

MACK & CO.
BRUMAGHIM.

AUG. 25, 1885.

Messrs. Mack & Co., Nos. 63 & 65 Hudson Ave., Albany, N. Y.

GENTLEMEN: I have just had placed in my hands a shirt of your manufacture and made substantially in accordance with cut and advertising slip heretofore alluded to in connection with the use of the words "bound bosom."

I am requested to notify you that my clients—the Cluetts—consider this shirt an infringement of one of their patents.

We presume that you have been misled by the views of some ill-advised expert or attorney who has taken the position that our invention is limited to the case where the bound bosom is secured to the shirt body by a line of stitching through the binding. We, however, do not consider our invention so limited, and an examination of the letters patent will show you that the broad invention is not so limited. In view of your frank and honorable treatment of the trade-mark matter, if for no other reason or reasons, my clients are not disposed to be harsh with you in this matter, but you
694 will know that if an opening be made for one all other infringers may go free, and that our only safety is to ask and firmly insist that the infringement be stopped, and that if our claim is disputed the only way is to seek the aid of the courts in settling the question between us.

For your further information I will say our second claim reads: "2. The shirt bosom (S), composed of two or more thicknesses of cloth (B L), bound on the outer edge with the binding (B″) and secured to the shirt front (F) by the line of stitching (O). I have bracketed the letters to show how the claim is to be read for the purpose of ascertaining what are the elements in combination, from which it appears that they consist of, 1, "the shirt bosom;" 2, "the binding," and, 3, "the line of stitching" for securing the bosom to the shirt front, or, 3, "the shirt front," and, 4, "the line of stitching" for securing the bosom to the shirt front. Your shirt clearly has all these elements.

Our patent, being the first to show a bound-bosom shirt, is en-

titled to broad construction, and until quite recently our right to control a bound-bosom shirt has been conceded by the entire trade.

With these explanations to enable you to come to a conclusion as to what our rights and your own duties are in this matter, I close by saying that I shall expect to have your decision within a reasonable time.

Very truly yours, J. A. SKILTON.

AUG. 26, 1885.

Messrs. Mack & Co., Nos. 63–65 Hudson Ave., Albany, New York.

GENTLEMEN: Your letter of the 25th to G. B. C., B. & Co.
695 on the subject of consent to substitution of the word king for the word "crown" in your label has been referred to me for answer.

Herewith I send you their letter-head, which shows a crown (cut) almost exactly like those on your label and which has the words "trade-mark" under the same.

While we would be glad to save you time and expense in the matter, we consider the figure of a crown equally our trade-mark with the word "crown," and it might be used with the word queen, emperor, or other of like meaning and appropriate so as to injure our trade by confusing your goods with our own. I regret that consequently I cannot advise assent to your request.

Very truly, &c., J. A. SKILTON.

Nov. 9, 1885.

Messrs. Mack & Co., Albany, N. Y.

GENTLEMEN: Some months since I wrote you in reference to your infringement of the Cluett bound-bosom patent and gave you time to consider the matter. Having extended to you this courtesy, I now ask you to let me know what course you have decided to take in the matter.

Your shirt, of which a sample is before me, shows considerable ingenuity in disguising within it our invention; but I still find it there. In your case, as in some others, the first step is to give our claims the narrowest scope possible and then appropriate our combination of bosom, binding, and shirt front, which we were the first to make. Waiting your early reply,

I am, very truly yours, J. A. SKILTON.

696 ALBANY, N. Y., *Nov.* 10. 1885.

James A. Skilton, 115 B'way, N. Y. city.

DEAR SIR: Mr. Mack is out of town for a few days, and we will call his attention to your letter of the 9th as soon as he returns. Trusting this may be satisfactory to you, we remain

Yours, MACK & CO.
BRUMAGHIM.

Messrs. Mack & Co., Albany, N. Y.

GENTLEMEN: Your reply of the 10th is before me. While I am

willing to extend all possible courtesy to you in this matter, it has become necessary for me to know promptly what your decision is, that I may perform my own duty as an attorney in the case. Therefore I shall expect a reply—definite—at the earliest possible moment.

In order to save time I call your attention to the language of what I understand is your shirt patent of Sept. 2, 1879, No. 219,284, Mambert, and a comparison of the same with that of the Cluett patent, No. 156,880, Nov. 17, 1874. You will see that the objects and methods of the two are substantially the same; that the location of the "independent band of folded fabric" only is changed, and that slightly, the "part B" being in effect a part of the bosom, if not in fact its outer edge really, and, finally, that this "band" is "folded over and stitched to" this "part B," "and the edge thus bound is stitched to the curved edge E of the lower part C of the shirt front, said band forming the curved brace in the finished
697 shirt." This is exactly what our invention does—act as a "brace"—only you make the opening for inserting the bosom somewhat larger than we do, and you do it in the precise manner set forth in our claim 1 of the patent. In other respects it appears in the patent—yours—as in your advertisement of the "bound-bosom shirt," that our invention is much more than the prototype of yours. This patent of Sept. 2, 1879, I had not examined when I wrote you before, and I am strongly confirmed by it, now that I have examined it, in the opinion that your shirt is a clear infringement. I am fully aware that at least one expert has undertaken to narrow and limit our invention to exactly what we do in method, form, and construction, and then declares the patent void for want of novelty. He does this under the pressure of certain clients who want to make a bound-bosom shirt and feel that they must first get our patent out of the way. Such an opinion being thus obtained, the next step is to employ either the same expert or one who follows his lead to obtain letters patent for slight modifications of our arrangement of parts as shown in the drawings, and then go to the world loudly claiming invention for themselves for the little and later thing, while denying invention to us for the larger and preceding thing. This has finally become so bold and yet so transparent an infringement of our rights that the Cluetts have decided to pursue every manufacturer who does it to the end of the law in self-vindication. Judging from your treatment of the previous matter, I have taken it for granted that you had been in some way misled into this infringement and would at once stop when your mistake had been clearly shown to you. For this reason I have commenced no suit against you although authorized so to do, and I have further taken pains to explain in advance, that you might act advisedly. We were the first to make a bound-bosom shirt; we have described, patented, and claimed it, and we are so satisfied of our rights that
698 we propose to follow every infringer to the end and thus protect our business from damage.

Very truly yours, J. A. SKILTON.

ALBANY, N. Y., *Nov.* 16*th*, 1885.

Jas. A. Skilton, Esqr., att'y for Geo. B. Cluett, Bro. & Co., No. 115 Broadway, N. Y.

D'R SIR: In reply to your several communications relating to alleged infringement by us of letters patent No. 156,880, issued to Rob't Cluett Nov. 17, 1874, we would say that, considering the disposition as manifested by the same and the attempted intimidation of our customers by the issuing to them of printed "special notices," which, if not intended for the purposes of deceiving, were such gross misrepresentations of facts as to tend toward deception and fraud, we had contemplated bringing before the court such evidence as we have showing the state of the art for some five years or more prior to the issuing of the patent in question; also showing that Rob't Cluett could not have been ignorant of these facts when he applied for the patent, and to ask for a decision on the validity of the patent or to have its scope defined; but having learned you had already brought suit against one party (presumedly in good faith) we deferred action awaiting the result of said suit. We now respectfully request that you either bring suit against us or desist annoying us and our customers; otherwise we shall be compelled to place before the court abundant evidence which we have and demand the invalidity of the patent.

We do not desire to take this latter step. We prefer the patent should stand as valid for all it claims in the broadest con-
699 struction, and thus act as a barrier against ruinous competition which would result from free use.

Accept our thanks for your gracious condescension (o) in "taking pains to explain in advance" your alleged opinion as to the scope of the patent, or, rather, what your clients crave for it; but as "any litigation of the case by letter is likely to result unsatisfactorily," we will defer comments, criticisms, or contradictions, simply stating that we have in no way or manner, directly or indirectly, infringed the letter of the patent in question or its broadest scope the inventor ever anticipated for it. We have never used the Mambert patent for the purposes of binding a bosom; have never bound a bosom under that patent; have never claimed or advertised it as a "bound bosom."

In conclusion, we would say all we ask for the present and future for ourselves and our customers is to be let alone, and we will let your letters patent and your alleged invention alone.

Yours very truly, MACK & CO.

P. S.—We have an old shirt before us, an exhibit of what was made for three years or more prior to the issuing of the patent to Cluett. This shirt is made exactly the same as Cluett's, and the same concerns had made them and placed them upon the market for years prior to that time, and successively from that time down to the present day. We have other abundant evidence of the alleged invention having been used both in this country by many and in England many years prior to the issuing of your patent.

Nov. 20, 1885.

Messrs. Mack & Co., Albany.

700 GENTLEMEN: In reply to yours of the 16th, we are unaware of the existence of any such shirt as you mention prior to our invention, and therefore are defending it in good faith. If the facts are as stated by you we would seem to have no case. Therefore I should be obliged to you if you would send me a pencil sketch showing just how the bosom and shirt which was before the writer of your letter is made. I am very certain my clients do not desire to claim what does not fairly belong to them.

Very truly yours, J. A. SKILTON.

ALBANY, N. Y., *Nov. 24th*, 1885.

James A. Skilton, Esq., 115 Broadway, N. Y.

DEAR SIR: In reply to yours of 20th, soliciting "a pencil sketch showing just how the bosom and shirt is made," we would say that, not being skilled in drafting, but having had many applications before the Patent Office within the past fifteen or twenty years and several years' practical experience in shirt-making, we feel more competent to state how a shirt should be made (to conform to any specifications and claims) and is made than to attempt any "sketch" for illustrating. We prefer, therefore, to let the statement of facts in our previous letter stand in lieu of a sketch. The shirt itself, together with many others made prior to 1870, and numerous affidavits of merchants and citizens (some in our own city) who purchased these shirts from time to time of a well-known manufacturer, who made them prior to 1869 and successively thereafter (either personally or by employés) up to the present time, can be

701 produced for either defence or prosecution whenever circumstances render such a course advisable.

Yours very respectfully, MACK & CO.

DEC. 16, 1885.

Messrs. Mack & Co., Albany, N. Y.

GENTLEMEN: In reply to your letter of November 24 and in further reply to that of November 16 ult., I have decided to comply with your urgent request and bring suit against you for the infringement of the Cluett-shirt patent, and at the same time furnish you the coveted opportunity of attacking the validity of that patent.

In view of the statements contained in those letters I presume that you will facilitate my action by naming your attorney in this city and authorizing him to accept service of papers and to file an appearance on your behalf. Please do so.

Very truly yours, J. A. SKILTON.

ALBANY. N. Y., *Dec.* 17, 1885.

Jas. A. Skilton, Esqr., 115 Broadway, N. Y.

D'R SIR: In reply to yours of the 16th we would say that, not having any attorney, we are unable to advise as you request.

Yours very truly, MACK & CO.

702 APRIL 3, 1886.

Messrs. Mack & Co., Albany, New York.

GENTLEMEN: A number of months since you notified me that you very much desired to bring the Cluett patent into court in order that you might attack the patent and secure a decree against the same declaring the patent void or invalid. I have finally filed a bill in equity, in which you with other parties are included as defendants; and it is my purpose, either here or elsewhere or both here and elsewhere, to bring you into court for the purpose of having the validity of the Cluett patent tested, as well as the question of your infringement of that patent in the manufacture of a certain shirt, which I believe to be within both claims of the patent and a clear infringement of each. It will, of course, be more convenient to me to have you appear and be represented by counsel in the suit here, but if you do not appear and I am unable to bring you into the United States circuit court in this district it is my purpose to commence the attack elsewhere. If, however, you put in an appearance here it is probable that the expense of the suit will be very much less to you than if the bill is filed in some other district, since, if counsel are agreed on that subject, the mass of testimony already taken in the Tim case might, on proper terms, be stipulated into your case. On some accounts it would be to my advantage, personally and professionally, to have the opportunity of taking all this testimony over again, which I have a right to insist upon if I choose in case you should insert the same names in your answer.

With this explanation I leave it to you to decide whether it is better for you to direct attorneys who are already familiar with the case here to appear on your behalf in the new case. Do as you choose.

Yours truly, JAMES A. SKILTON.

703 ALBANY, N. Y., *April* 5, 1886.

Jas. A. Skilton, Esqr., att'y for "Cluetts," 115 Broadway, N. Y.

D'R SIR: We are in receipt of yours of 3d, stating your purpose to bring Mack & Co. into court, either in New York or elsewhere; also that you have filed a bill in equity in New York, and suggesting our putting in an appearance there by counsel.

We did not suppose a suit could be legally and *bona-fidely* brought with us in New York, but only in this district, even though both parties might mutually desire to bring it outside of this district.

We are disposed to accept suit anywhere most convenient mutually, if a thorough & fair trial can be had, but we do not desire simply a form of trial and outside of the proper district and where a judicial decision could not be given.

We shall be pleased to entertain any further suggestions or explanations you may offer.

Yours very truly, MACK & CO.

Cluett vs. Claflin. Complainants' Exhibit Three Cluett-Skilton-Mack Letters. E. S. B., Sp. Ex. February 17, 1887.

(See Complainants' Printed Record, page 568.)

TROY, N. Y., *August 22d*, 1885.

James A. Skilton, Esq., New York.

DEAR SIR: Your favors of the 21st put the matter in a nutshell.

We see no reason to suspect any hidden purpose, and we send
704 your letter to Mess. Mack & Co. endorsed as you suggest.

We trust this will end the matter, and we appreciate your prompt solution of it.

Mess. Mack & Co.'s reference to our having bought paper or linen paper collars of them on which the word "crown" was used is entirely new to us. We can scarcely think that we should not notice their use of our trade-mark; but this might have arisen from our getting a few paper collars from them at a customer's solicitation and passing them over to the customer without seeing the labels.

Yours faithfully, GEO. B. CLUETT, BRO. & CO.

TROY, N. Y., *August 22d*, 1885.

Mess. Mack & Co., Albany, N. Y.

GENTLEMEN: In handing you Mr. Skilton's letter, with our endorsement accepting proposition of the 20 inst., we do so regretting that you consider our action groundless. Without inviting discussion or indulging in any unnecessary contradiction, we assure you we are acting only in accordance with what we carefully consider to be eminently just, and we would kindly suggest that you yourselves, in yielding the point, even though you may not be distinctly convinced of its fairness, have reason to believe that it will prove to you a matter of expediency and benefit. The confusion of trade-marks might benefit or harass both parties concerned; but we cannot but think that it is as much your ultimate interest as ours to have an undisputed trade-mark and business signature.

With much esteem we remain, yours faithfully,

GEO. B. CLUETT, BRO. & CO.

705 AUGUST 25TH, 1885.

Mess. Mack & Co., Albany, N. Y.:

Responding to your inquiry of the 25th inst., we beg to say that your proposition seems to us to ignore the first principle of the application of a trade-mark. Either of the labels you submit to us would be just as applicable to our own goods as any label or designation we have ever used. The "Crown" we claim as our trade-mark. The design without the name or the name without the thing would be equally useless and impracticable. If people are to know our goods as "Crown" goods they must use the word "crown" in designating them. The word either written or spoken or as represented by the picture of a crown as applied to collars we claim as our own property, and in our extensive advertising we have, of course, used the name and the image of the "crown."

the bottom, & in dotted-line extension thereof a square bosom, each bound like the others.

I use either straight or bias cut binding, and apply it to bosoms of any shape, round or square.

2. By striking from the claims 1 & 2 the words "bias cut."

Washington, D. C., Aug. 8, 1874.

ROBERT CLUETT,
By his att'y, JAMES A. SKELTON.

Endorsed: R. Cluett. Filed Aug. 10, '74. $\frac{308}{140}$. Patent Office, Aug. 10, 1874, U. S. A. No. 1. 11.

708 21 compr.

Examiner's room No. 5.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Dec. 14th*, 1874.

Rob't Cluett, care James A. Skellton, lock box 8, Washington, D. C.:

Your application for a patent for imp't in shirt bosoms, filed Aug. 10, 1874, has been examined and found to be substantially anticipated in the patent to J. H. Myers, No. 153,367, July 21, 1874, class apparel, subdiv. "shirts & bosoms." A patent is therefore refused.

H. BLANDY, *3d Ass't.*

App'd.

W. BURKE.

K. E.
E. L. L.

Endorsed: R. Cluett. Rej. Dec. 14, '74. $\frac{308}{140}$. 2368. D., '87. 2.

(Here follow diagrams marked pp. 709 to 720, incl.)

722 UNITED STATES PATENT OFFICE.

ROBERT CLUETT, of Troy, New York.

Improvement in Shirts.

Specification forming part of Letters Patent No. 156,880, dated November 17, 1874; application filed August 10, 1874.

To all whom it may concern:

Be it known that I, Robert Cluett, of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirt-bosoms; and I do hereby declare that the following is a full, clear, and exact description thereof, which will enable others skilled in the art to which it pertains to make and use the same, reference being had to the accompanying drawings, and to the letters of reference marked thereon, which form a part of this specification.

The object of my invention is, first, to avoid the folding in of the edges of the bosom, and the raw edges and loose threads thereof,

the bottom, & in dotted-line extension thereof a square bosom, each bound like the others.

I use either straight or bias cut binding, and apply it to bosoms of any shape, round or square.

2. By striking from the claims 1 & 2 the words "bias cut."

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The object of my invention is, first, to avoid the folding in of the edges of the bosom, and the raw edges and loose threads thereof,

which disfigure the bosom when so folded in; second, to stay the bosom, rendering it firmer in itself, and less liable to rumple or break; third, to avoid wrinkling of the bosom by the unevenness or fulling up of any one of the layers composing the bosom in any part thereof, each and all of these three features having reference to the preparatory stages of manufacture, but to be completed in the bosom as attached to the shirt.

Its construction consists in preparing and fixing the two or more layers in place smoothly in relation to each other, and then binding the edge with a folded stip of cloth like the bosom-front, cut bias (or diagonally) or straight from the piece, so as to turn the curves of the bosom without tendency to gather on one side, and so as to suit round, square, or any other shaped bosom, this binding extending entirely around the bosom (except at the neck and yoke) and holding the parts firmly in place by a line of stitches before the bosom is inserted in or placed on and attached to the body of the shirt, and finally attaching the bosom so prepared to the shirt-body, in the manner hereinafter shown. The invention consists in the shirt-bosom, or shirt and bosom, so constructed, and not in the bosom alone.

Where the bosom is inserted in the shirt a back layer of the bosom is left outside of the binding and free. As to the rest, and where it is placed on and attached to the shirt-body, the seam is made through all—the binding on both sides and the layers of cloth between, as well as the shirt-body.

The drawing contains fourteen figures.

(Here follows diagram marked p. 721.)

Figure 1 is a front view of the upper part of a shirt, in which the bosom proper is secured to and over the shirt-body front, as illustrated in the following figures, to and including Fig. 7. Fig. 2 is a sectional view cut on the line U U. Fig. 3 is a sectional view cut on the line V V. Fig. 4 is a plan or pattern view of the shirt-body shown in Fig. 1. Fig. 5 is a front view of the bosom before being secured to the body, as in Fig. 1. Fig. 6 is a sectional view cut on the line U U, Fig. 5; Fig. 7, the same on line V V, Fig. 5. Fig. 8 is a front view, in which the bosom proper is inserted in the shirt-body front, as illustrated in the remaining figures to Fig. 14, inclusive. Fig. 9 is a sectional view cut on the line X X, Fig. 8; Fig. 10, the same on line Y Y, Fig. 8. Fig. 11 is a plan or pattern view of the shirt-body cut out for the insertion of the bosom. Fig. 12 is a front view of the bosom for insertion. Fig. 13 is a sectional view on the line X X, Fig. 12; Fig. 14, the same on the line Z Z, Fig. 12.

Figs. 5, 6, and 7 show one line of stitches passing through the bias or straight cut binding B″ and bosom-layers B and L. In these as in all the figures, S′ indicates the location of a stitch and an inside line of stitching. This bosom is composed of two layers, and is secured on the shirt-body F, as shown in Figs. 1, 2, and 3, by the outside line of stitches O.

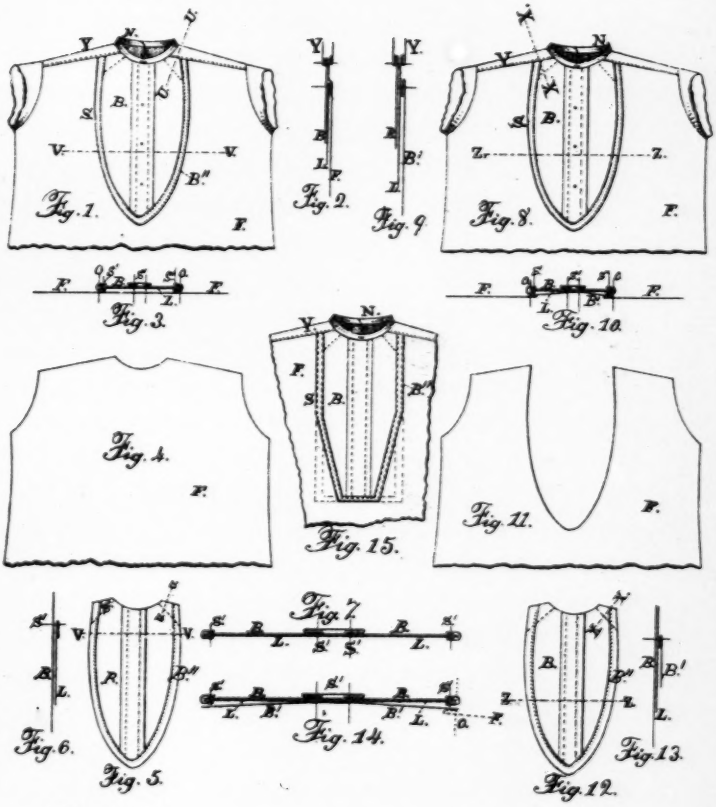
Figs. 12, 13, and 14 show one line of stitches, S′, passing through

No. 174.
Cluett et al.
Claflin et al. } No. 721.

R. CLUETT.

Shirts.

No. 156,880. Patented Nov. 17, 1874.



Witnesses:

R. C. Bull

T. A. Weeks

Inventor;

Jeff Cluett

Tony W.

the bias or straight cut binding B″ and bosom-layers B and L, the back layer B′ not being stitched to the rest by such line of stitches.

Figs. 8, 9, 10, and 11 show how this form of bosom is inserted in the shirt-body F—first, by a line of stitching attaching the back layer B′ to the shirt-body F at the bend shown on the under side of Fig. 10; and, second, by the outside line of stitches O, shown in Figs. 8, 9, and 10.

The bosoms so made have each layer evenly laid over the other, and so held in place during the final process of insertion or
723 attachment, as the case may be, and they remain equally even and smooth after the shirt and bosom are complete.

The thickness of cloth in the bosom may be varied, and either increased or reduced.

I claim as my invention—

1. In combination with a shirt-body, a shirt-bosom bound on the outer edge with a folded and stitched binding, and attached to the shirt-body by a separate line of stitching through such binding.

2. The shirt-bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B″, and secured to the shirt-front F by the line of stitching O.

In testimony that I claim the foregoing as my own invention, I affix my signature in presence of two witnesses.

ROB'T CLUETT.

Witnesses:
R. C. BULL.
F. B. WEEKS.

725 UNITED STATES PATENT OFFICE.

ROBERT CLUETT, of Troy, New York.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 161,205, dated March 23, 1875; application filed April 8, 1873.

To all whom it may concern:

Be it known that I, Robert Cluett, of the city of Troy, county of Rensselaer, and State of New York, have invented a shirt and bosom, of which the following is a specification:

The objects sought to be accomplished by my invention are, to provide for free motion of the shoulders of the wearer, and obviate the defects in a shirt-bosom of the full usual width, general shape and form at top, or without substantial change in this part of its contour, so that the rumpling, wrinkling, and misfitting of the bosom frequently existing may be prevented, and the comfort of the wearer be thereby promoted.

The same objects have been sought to be accomplished by drawing or curving in the upper part of the bosom on each side of and to the neck-band. My invention differs from this method in having the bosom of full width at top, and not having the bosom so drawn

or curved in, and providing therein the means described hereaft to accomplish these objects.

The means I use to accomplish these objects consist, first, in cros welts, seams, folds, or thicknesses of material interposed in the boso between the front line of the yoke or shoulder-piece on either sid and a line drawn across the bosom at the bottom or front of th neck-band, traversing the two narrow projections or extensions o the bosom around the neck-band diagonally, and constituting a sor of hinge or line of flexure for the bosom from the motions of the shoulder; and, second, in a shirt-bosom made of two or more thicknesses of material in the main part, but made of a less number o thicknesses in the extensions on each side of the neck-band, so that the upper parts of each will be comparatively thin and pliable, and the lower or main part will be thick and stiff, as usual, and as required in that part of the shirt-bosom; and, third, in the combination of these two elements.

The seam or welt is an element or subdivision of my invention independent of the difference in the number of plies above and below it; and consists in an increased thickness or stiffness at that point, or on that line, over both the parts above and the parts below it, which in itself resists the tendency of any rumple coming from a motion of the shoulders above, or wrinkles coming from slight displacement during washing and ironing, to extend below it, and also helps to keep the exposed part of the bosom extended and flat under all the usual circumstance of wear and use. The effects of the welt or seam are increased by making the parts of the bosom above it of less thickness than the part below it.

The shirt and bosom constituting or containing my invention are shown in the several figures of the accompanying drawing—

(Here follows diagram, marked p. 724.)

where A represents the body of the shirt; B, the bosom; C, the yoke, spring, or shoulder-piece; and S S, the welts or seams. That part of the body A which lies under the bosom constitutes the back layer of the bosom when the bosom is inserted entirely and not laid on and attached to and over the body, and is also substantially the back layer or lower ply of the bosom when the bosom is attached over the body.

The sectional view, Fig. 2, shows the location of the welt or seam S in the bosom, which gives increased stiffness to the bosom where it is located, over and above that existing below or above it, and thereby protects the main part of the bosom from the tendency to rumple derived from the motion of the shoulders of the wearer, or otherwise arising. It also *also* shows how the several layers or plies of the bosom are placed in reference to each other.

The proper location of the welt or seam, to secure the desired effect, varies with the forms of those who wear the shirt, persons of full form requiring less allowance for the motion of the shoulders than those of spare form.

The welt or seam may be formed by folding over the upper edge

R. CLUETT.

Shirt-Bosom.

Patented March 23, 1875.

No. 161,205.

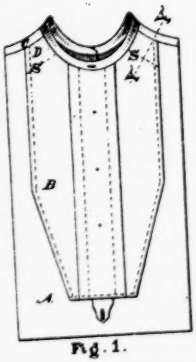


Fig. 1.

Fig. 2.

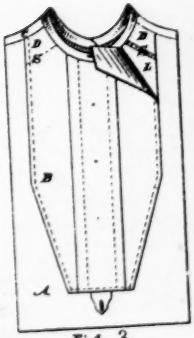
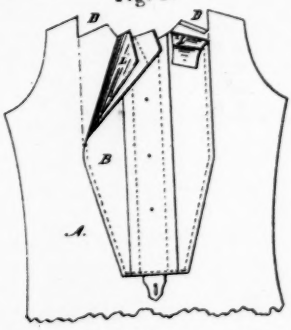


Fig. 3.

Fig. 4.



Witnesses;

Thos. Houghton.

Wm. H. Butterworth

Inventor:

Robert Cluett

by

Jamis A. Stillman atty

of one or more plies of the bosom or its linings, or in any suitable known way, and should be securely stitched to prevent displacement during the washing process. The stitching may be to and through the front or back layer of the bosom, or to and through all or any of the several layers constituting the shirt-bosom.

726 The parts above the seam or welt are made thinner than the part below by the extension of a part, only—one or more layers of the material composing the bosom, up to the yoke or shoulder-piece C, to which attachment is made in the usual manner. Figs. 1 and 3 show the front layer so extended.

I claim as my invention—

1. The welts S S, interposed in a shirt-bosom between the shoulder-pieces and a line drawn across the bosom at the front of the neck-band, as shown and described.

2. A shirt-bosom composed of two or more plies or thicknesses of cloth in the main part, and of a less number in the upper portions of the extensions of the bosom, as shown and described.

3. The stiffening-welts S S, and the shirt-bosom B, composed of varied thicknesses, in combination, and placed in the relation to each other shown and described.

ROBERT CLUETT.

Witnesses:
JAMES A. SKILTON.
THOS. HOUGHTON.

728 UNITED STATES PATENT OFFICE.

JAMES H. MYERS, of Troy, New York.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 153,367, dated July 21, 1874; application filed June 15, 1874.

To all whom it may concern:

Be it known that I, James H. Myers, of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirt-bosoms, of which the following is a specification, reference being had to the accompanying drawings.

The bosoms of gentlemen's shirts are commonly composed of three or more layers of linen, or linen and cotton cloth, and have the entire upper side parts, which extend along and are sewed fast to the neck-band, of the same thickness and stiffness as the main body of the bosom. Such thick and stiff upwardly-extended side parts of the bosom prevent the sides of the neck-band from freely conforming to the neck of the wearer, and often cause the exposed upper part of the bosom to rumple and fit badly, and feel very disagreeable to the person. To remedy or lessen that defect, and to stiffen and sustain the side parts of the upper portion of the bosom where exposed to view, are the principal objects of my present in-

vention, which consists, first, of a shirt-bosom having the upper parts of its two upwardly-extended side portions made thinner and more flexible than the main body of the bosom, and, secondly, of thickening and stiffening strips formed and arranged in and across the lower parts of the upwardly-extended portions of the bosom, substantially as hereinafter described.

In the aforesaid drawing—

(Here follows diagram marked p. 727.)

Figure 1 is a front view of the body of a gentleman's shirt having one of my improved bosoms. Fig. 2 represents a shirt-front having one of my improved bosoms, of which some parts are partially detached, and Fig. 3 is an enlarged section of the same at the line *z z*, and Fig. 4 is a like section at the line *y y*. Fig. 5 is a front view of one of my improved shirt-bosoms having a portion partly detached, and Fig. 6 is a section of the same at the line *x x*, and Fig. 7 a section at the line *w w*. Fig. 8 represents a portion of one of my improved shirt-bosoms, and Fig. 9 is a section of the same at the line *v v*. Fig. 10 shows the upper parts of one of my improved shirt-bosoms, which can be opened in the middle, and Fig. 11 is a section of the same at the line *u u*.

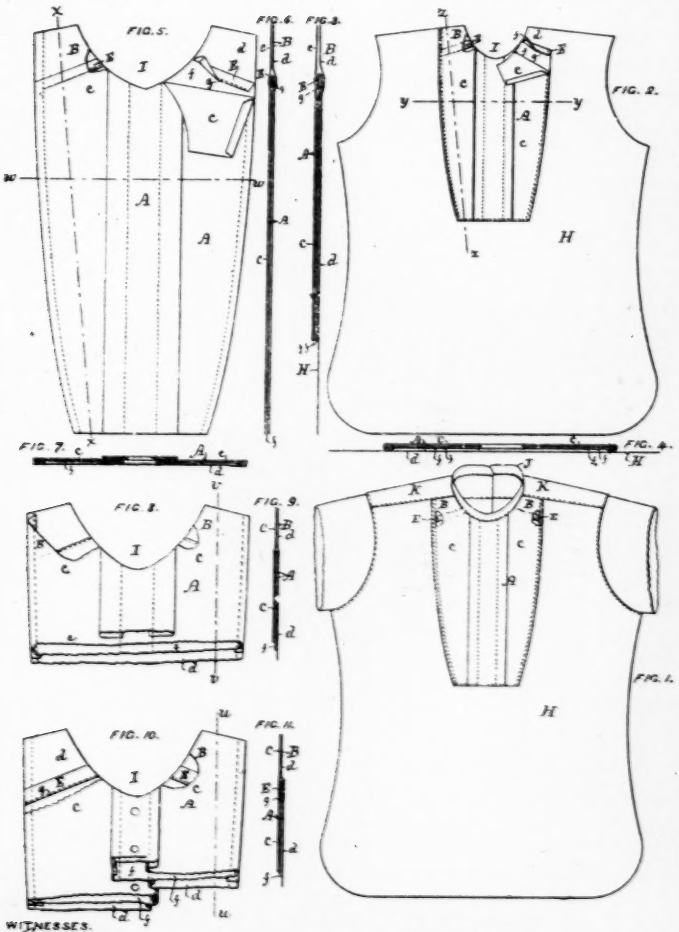
A is the main body of the bosom, and B B are the two upper end portions thereof, which are thinner and more flexible than the main bosom body. The body of the bosom is formed of layers of woven fabric, and either plain or plaited in the usual or any suitable manner. The upper end parts B B are formed by continuations of only the front layer C of the bosom, with or without like extensions of the extreme back layer *d*, or other suitable layer of the bosom body, when the latter consists of three or more thicknesses of woven fabric. The stiffening-strips E E are formed by a fold or folds in the inner or back layer or layers of the bosom, and are held in place by a row or rows of stitches, *g*, which may or may not extend through another layer, or other layers, of the bosom; or the stiffening-strips E E can be formed by securing separate strips of any suitable fabric back of the front layer *c*, by means of stitches passing through such strips and a layer or layers of the bosom, whether the upper parts of the extended side portions of the bosom are or are not thinner and more flexible than the bosom body. In the bosom represented by Figs. 8 and 9 there are no stiffening-strips across the lower parts of the upwardly-extended side portions B B. In the bosom shown by Figs. 10 and 11 the stiffening-strips E E are each formed by a single fold in the one middle layer *f*. In Figs. 5 and 6 each stiffening-strip E consists of two folds of the one inside layer. In Figs. 2 and 3 each stiffening-strip E is composed of a single fold of the two inner layers *f f* of the bosom, and a portion of the shirt-front H constitutes the back layer *d* of the bosom body and of the thin upper end portions B B. The thin upper portions B B may extend down more or less, near to the middle of the bottom of the neck-recess I in the bosom, but I generally prefer to have the bosom of full thickness along the middle portion of the bottom of that recess, so as to pre-

No. 174.
Clark et al.
vs.
Claflin et al.

J. H. MYERS.

Shirt Bosoms.

No. 153,367. Patented July 21, 1874.



WITNESSES.
Geo. P. Lawton.
Austin F. Park.

INVENTOR.
James H. Myers

vent the rumpling of the bosom at that place. In a shirt, the seams which unite the thin upper end portions B B of the sides of the bosom to the neck-band J and yoke K are smaller and less rigid, and less liable to be broken or injured in ironing, than in a shirt which has the extended upper side parts of the bosom of the same thickness as the main body thereof.

729 While a starched and ironed shirt having my improved bosom is being worn the extended thin upper parts B B of the bosom are generally covered and hid from view by the collar or cravat and vest of the wearer, and while thus concealed are freely flexible, so as to allow the sides of the neck-band to conform and fit nicely to the neck of the person without rumpling or displacing the adjacent upper portions of the bosom which are exposed to view.

The stiffening-strips E E help to support and keep in place, and prevent wrinkles in, the side parts of the bosom which are exposed to view immediately below the concealed upper end portions thereof, and which are generally more liable to get rumpled or displaced than the other parts of the bosom that are in sight while the bosom is being worn.

What I claim as my invention is—

1. A shirt-bosom, the main body of which is composed of two or more layers or thicknesses of material, having its upper portions B B of a less number of the thicknesses than the main body, substantially as described and shown, and for the purpose set forth.

2. In combination with the shirt-bosom A, the stiffening-strips E E, substantially as described and shown, and for the purpose set forth.

In testimony whereof I hereunto subscribe my name this 9th day of June, 1874.

JAMES H. MYERS.

Witnesses:
GEO. P. LAWTON,
AUSTIN F. PARK.

731 UNITED STATES PATENT OFFICE.

GEORGE B. PERKINS, of Bridgeport, Connecticut, assignor to Burlock Manufacturing Company, of the same place.

Letters Patent No. 65596, dated June 11, 1867.

Improvement in Shirt Bosoms.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that I, George B. Perkins, of Bridgeport, in the county of Fairfield and State of Connecticut, have invented a new and useful improvement in shirt fronts, and I do hereby declare the follow-

ing, when taken in connection with the accompanying drawings and the letters of reference marked thereon, to be a full, clear, and exact description of the same, and which said drawings constitute part of this specification and represent in—

(Here follows diagram marked p. 730.)

Figure 1, a view of the front with the body of the shirt as folded.
Figure 2, a section on line *x x* enlarged.

This invention relates to the peculiar form and construction of the bosom, and in such peculiar form and construction the invention consists; and to enable others to construct my improvement I will proceed to describe the same as illustrated in the accompanying drawings.

A is the body of the shirt, denoted in blue, Fig. 2, and extends in and meets at the centre, as denoted in Fig. 2. The bosom is cut commencing narrow at the neck, increasing in width over the breast, narrowing toward the waist, as seen in Fig. 1. The object of this peculiar form is to allow the bosom to conform easily to the body and without that liability to "hitch up" and wrinkle by the movement of the body, as does the common square bosom. The bosom is constructed each side from a single broad plait or a double thickness, B, of material laid flat or plain and having a cord, *a*, upon the edge, and at a little distance from the edge other cords, *b*, as seen in Fig. 2, the object of these cords being to give firmness and elasticity to the broad plait B, and the bosom thus formed and constructed is stitched to the body of the shirt upon the line *c*, so as to lie up independent of the body A. This arrangement, when the shirt is upon the person, leaves an open space between the plait and the body of the shirt, so that the perspiration from the person, if absorbed by the body of the shirt under the bosom, will pass off or evaporate from the space without moistening or soiling the bosom. This construction is intended more particularly for summer wear or traveling shirt.

Having therefore thus fully described my invention, what I claim as new and useful and desire to secure by letter patent is—

A bosom attached to the shirt over the bosom proper thereof, expanding in width from its attachment to the collar band and narrowing in its approach to the waist, as shown, and strengthened longitudinally by cording, all substantially as described.

Witnesses: GEO. B. PERKINS.

JOSHUA LORD.
HENRY B. GOULD.

G. B. Perkins.

Shirt Bosom.

No 65596 Patented Jun. 11, 1867.

Fig. 1.

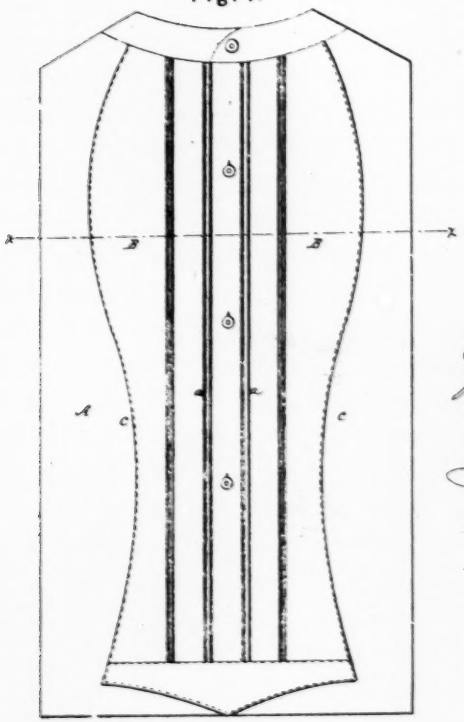
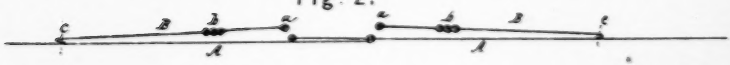


Fig. 2.



Witnesses.

E. G. Thompson.

A. J. Willis

Inventor.

George B. Perkins

By his Attorney

Thos. E. Earle

M. Palmer. Jr.,
Bosom.

No 103232 Patented. May 17 1870

Fig 1

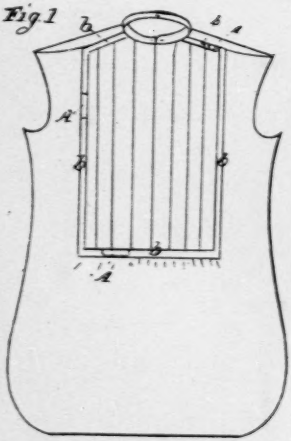
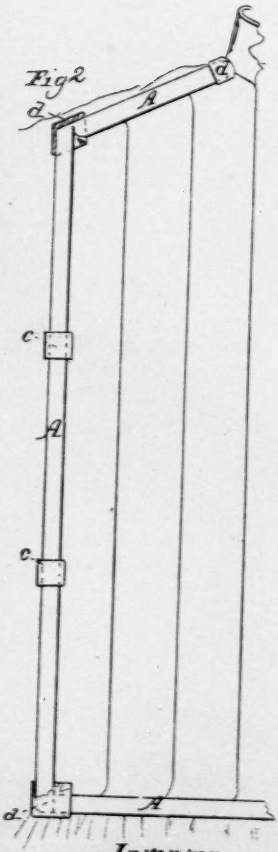


Fig 2



No. 174.
Cluett et al.
v.
Claflin et al.
} p. 732

Witnesses.
Edwd. P. Mai
Chas Kenyon

Inventor.
Moses Palmer Jr.
Chipman Fromer & Co.
Attorneys

733 UNITED STATES PATENT OFFICE.

MOSES PALMER, Jr., of Boston, Massachusetts.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 103,232, dated May 17, 1870.

To all whom it may concern:

Be it known that I, Moses Palmer, Jr., of Boston, in the county of Suffolk and State of Massachusetts, have invented a new and valuable improvement in shirt-bosoms; and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same, reference being had to the annexed drawings, making a part of this specification, and to the letters and figures of reference marked thereon.

(Here follows diagram marked p. 732.)

Figure 1 of the drawings is a representation of the under side of my shirt-bosom, showing the mode of attachment. Fig. 2 is a sectional view, showing a modification thereof.

My invention relates to shirt-bosoms; and consists in the application of strips of whalebone, or other similar flexible substance, to the border or edges thereof, whereby the bosom is effectually preserved from being crumpled by wear, and the set thereof materially improved.

In the application of these stiffening strips, lettered A on the drawings, I usually arrange them around the border of the bosom and underneath the same. They are secured to the bosom by means of the slips or pockets *b*, formed in the cloth, in such a manner as to be readily removable when necessary. Sometimes, instead of a long casing, I prefer to form loops *c* at different points, to confine the stiffening-strip to the cloth, making use of the short pockets or stalls *d* to confine the ends thereof at the corners of the bosom, and prevent the strips from working out endwise.

When the upper corners of the shirt-bosom are close to the neck-band, the short stiffening-strips in the upper edges thereof may be omitted without material disadvantage; but when the bosom is broad they should be used.

It may also be found convenient to dispense with the horizontal stiffener at the bottom edge of the bosom. This will depend upon the length and style of the bosom; or a short strip may be introduced to stiffen the bottom edge at its central portion only, instead of extending from corner to corner.

Instead of whalebone I may employ strips of other material. Spring-steel, such as is used in the manufacture of hoop-skirts, will serve an excellent purpose. Wire may also be used, as well as thin strips of wood.

My shirt-bosom retains its set and smoothness in a marked manner. Even when confined by the outer clothing it is not crushed thereby.

What I claim as my invention, and desire to secure by letters patent, is—

A shirt-bosom provided with the stiffeners A in its sides, or sides, bottom, and top edges, substantially as shown and described.

In testimony that I claim the above I have hereunto subscribed my name in the presence of two witnesses.

MOSES PALMER, JR.

Witnesses:
E. W. ANDERSON.
EDW. P. MASÉ.

735 116,687.

UNITED STATES PATENT OFFICE.

CALVIN CROWELL, of Syracuse, New York, assignor to Daniel D. Smith, of same place.

Improvement in Shirt-Bosom Expanders.

Specification forming part of Letters Patent No. 116,687, dated July 4, 1871.

To all whom it may concern:

Be it known that I, Calvin Crowell, of Syracuse, in the county of Onondaga and State of New York, have invented an improved shirt-bosom expander; and I do hereby declare that the following is a full, clear, and exact description thereof, which will enable others to make and use the same, reference being had to the accompanying drawing forming part of this specification, in which—

(Here follows diagram marked p. 734.)

Figure 1 is a front view, and Fig. 2 a side or edge view of my invention.

Similar letters of reference indicate like parts.

The object of this invention is to provide a light elastic framework for holding the shirt-bosom fair and smooth, and to prevent it from absorbing perspiration by holding it from contact with the person, as hereinafter more fully described.

This I construct by taking a thin strip of spring metal, A, and fastening upon it a series of cross-arms or bars, *a a*. It is worn behind the bosom of the shirt, and is secured thereto by a button at each end, the upper button B having a silver or gold finish, and buttoning through the neck-band or collar of the shirt, while the lower button *b* is buttoned to the shirt at the waistband or lower part of the bosom.

By these means perspiration cannot soil the bosom, and it is prevented from wrinkling, adding materially to neatness of dress. The

bosom will be held extended without the arms *a a*, which are used more especially for keeping it out free from the person.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

A shirt-bosom expander, composed of the longitudinal strip A, and transverse pieces *a a* attached thereto, the device being provided with buttons B *b* for securing it to the shirt-band and bosom, all constructed and arranged substantially as shown and described.

The above specification of my invention signed by me this 24th day of April, 1871.

CALVIN CROWELL.

Witnesses:
GEORGE R. COOK.
F. A. MORLEY.

737

127,974.

UNITED STATES PATENT OFFICE.

GEORGE HARRINGTON, of Springfield, Massachusetts.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 127,974, dated June 18, 1872.

To all whom it may concern:

Be it known that I, George Harrington, of Springfield, in the county of Hampden and State of Massachusetts, have invented a new and useful improvement in shirt-bosoms; and I do hereby declare that the following is a full, clear, and exact description thereof, reference being had to the accompanying drawing making a part of this specification, and to the letters of reference marked thereon, in which—

(Here follows diagram marked p. 736.)

Figure — is a front view of my invention, and Fig. 2 is a back view of the same.

My invention relates to false shirt-bosoms for gentlemen's wear, made of paper, or of paper and cloth combined, or of any other suitable material which may be properly stiffened and cut out by dies and finished by machinery; and it consists of a single sheet of such material, cut out in the proper form of the shirt-front, and having two or more slits cut therein down the front, and another sheet attached to the bosom behind said slits by means of some adhesive substance, or by stitching or otherwise.

That others skilled in the art may be able to make and use my invention, I will proceed to describe the same.

In the drawing, B represents the shirt-bosom, cut out in the desirable form by means of a die, and having the two slits *a a* cut therein, extending from a point near the top down as far as may

be desirable, and the front is ornamented in imitation of stitching, plaiting, &c. To the back of the bosom is attached a piece, A, which is secured to the bosom at top and bottom by means of some adhesive substance, or in any convenient manner, and the bosom is ready for use, being worn in the usual manner. Of course any desirable number of slits *a* may be made, and the piece A secured to the back side should be sufficiently wide to cover them.

In practice, I find the best way to cut the bosoms is to use two dies, one inside the other, and both bolted or secured together firmly, the inside one forming the die for the slits and the outside one the die for cutting out the form of the bosom, and when arranged and used in this manner both the form of the bosom and the slits therein are cut out at one and the same time.

By this construction the bosom is much easier to the wearer than when made in the ordinary manner without the slits, as the latter allow the parts of the bosom each side of the slits to fold over each other, and thus the stiffness and rigidity are obviated, and the slits give more the appearance of plaits.

It is evident that the bosom may be made of any desirable material, either of cloth properly enameled and dressed, of paper, or of paper and cloth combined, and may be ornamented in any desirable manner.

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is—

An imitation shirt-bosom, consisting of the part B having the slits *a* made therein, and having the piece A secured to the back side thereof, all substantially as described.

GEO. HARRINGTON.

Witnesses:
T. A. CURTIS.
CLARENCE BUCKLAND.

739

128,994.

UNITED STATES PATENT OFFICE.

GEORGE W. WRIGHT, of Salem, Ohio.

Improvement in Elastic Bosom-Holders.

Specification forming part of Letters Patent No. 128,994, dated July 16, 1872.

Specification.

To all whom it may concern:

Be it known that I, George W. Wright, of Salem, Columbiana county, in the State of Ohio, have invented a new, useful, and improved elastic shirt-front or bosom-holder; and I hereby declare the following to be a full and exact description thereof, reference being had to the accompanying drawing forming part of this specification.

738

G. W. WRIGHT.

Improvement in Elastic Bosom-Holders.

No. 128,994. Patented July 16, 1872.

No. 144.
Clark et al.
v.
Claflin et al. } h. 738

Witnesses.
Jane E Dennis
Wm Dayton Roberts

George W. Wright.
By his Attorney J Dennis Jr

The nature or essence of my invention consists in the particular construction, combination, and arrangement of devices, forming the improved elastic shirt-front or bosom-holder, described in the following specification, and represented in the accompanying drawing, which shows the improved holder as applied to the person of the wearer.

In the above-mentioned drawing—

(Here follows diagram marked p. 738.)

A is a shirt-front or bosom applied to the bust of the man B, which front, A, has two buttons, C C, fastened to each vertical edge of the front for the loops D D to button on, as shown in the drawing.

The bifurcated ends D D are joined in some convenient manner to the ends of the strap of elasting webbing E, which is shown by dotted lines, passing across the back of the man B, which strap of webbing E is provided with a buckle, F, to adjust it with proper elasticity to persons of various sizes, and also to fronts or bosoms of different widths.

This invention holds the shirt-front smooth and free from wrinkles near the body, and, being elastic, it allows free motion to the body without inconvenience to the wearer.

I claim—

As a new article of manufacture, the elastic, bifurcated, adjustable, and detachable shirt-bosom holder, as shown and described.

GEORGE W. WRIGHT.

Witnesses:
JOHN A. MOORE,
R. H. GARRIGUES.

741 UNITED STATES PATENT OFFICE.

CÆSAR J. KASKEL, of New York, N. Y.

Improvement in Shirts.

Specification forming part of Letters Patent No. 130,056, dated July 30, 1872.

Specification.

To all whom it may concern:

Be it known that I, Cæsar J. Kaskel, of New York city, in the State of New York, have invented certain new and useful improvements in shirt-bosoms; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawing making part of this application.

As is well known to the shirt-maker (or manufacturer), one of the most serious troubles, if not the greatest difficulty, encountered in producing a satisfactorily-fitting shirt is in overcoming the tendency of the bosom of the shirt to break or crinkle crosswise (during the sitting or other posture assumed by the wearer in which the body is

bent forward), and thereby soon lose its neat appearance. As the upper and lower extremities of the stiffened bosom are held at comparatively fixed points (one by the shirt-neck band, the other by the waistband of the pants), or kept distended when the body of the person is erect, it follows, as a matter of course, that every time the person stoops over, or assumes a sitting or other posture in which these two points are brought nearer together, the stiffly-starched and smoothly-ironed bosom must bend or buckle over at some intermediate point, and it is this successive bending (indiscriminately) which soon breaks up and destroys the smoothness of the bosom. When a vest is worn with a shirt the evil alluded to is augmented, since a great portion of the bosom being then more or less held against or confined toward the body of the person (by the vest) the buckling up of the bosom will nearly all occur in the exposed or upper unconfined portion, and this, with the obstruction which the vest presents to a resumption of the distended condition, will generally induce to a quicker and more thorough mutilation or crinkling up of the bosom.

Since it is impossible, or at least impracticable, to prevent the bosom from bending and buckling over to some extent every time the body is bent, the only remedy to be applied is one by the use of which the bending or buckling over of the bosom shall be so regulated as to induce to the least possible amount of damage to the bosom, and keep smooth that part which is exposed to view; and for this reason it has been heretofore proposed to confine or limit this buckling or bending to the lower portion of the bosom by making the bosom so much thicker or stiffer along about two-thirds or three-quarters of its length than along the remainder as to insure that the bending shall occur somewhere in the more flexible lower portion, leaving the upper exposed and stiffer portion comparatively undefaced.

Shirt-bosoms have also been made tapering in contour, wide at the top and gradually reduced in width toward the lower extremity, so that the narrower (lower) and consequently weaker portion would bend first, leaving the wider exposed portion uninjured; but in practice it has been found that these methods for overcoming the evil alluded to are not fully efficient, it frequently occurring that the remedy which might be partially effective in one instance would entirely fail in another case (where the person was of a different shape or habit), and because the rumpling up or indiscriminate buckling over of the bosom throughout the more flexible or weaker portion is very objectionable.

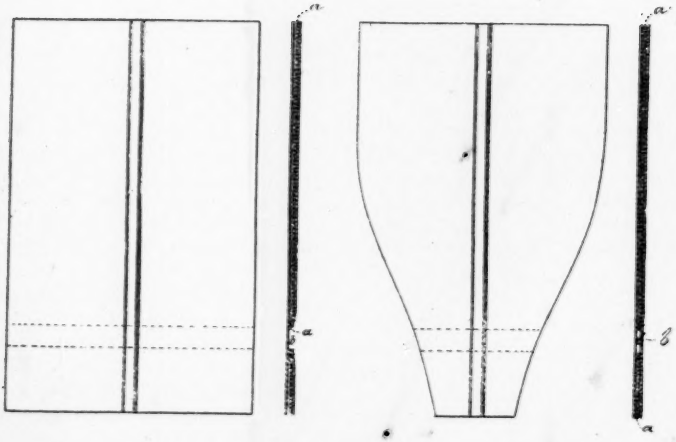
I propose, by my invention, to apply a new remedy, the peculiarities of which are that it varies in its application according to the shape of the person to whom the shirt is to be fitted, and determines the precise locality at which the bosom shall fold or bend. I have found, by observation and experiment, that with persons of different shapes the tendency to fold or buckle in the bosom occurs at different localities; and that if there be supplied any auxiliary inducement to this tendency to bend at said localities the buckling or folding can be restricted to a given point, and predetermined in

C. J. KASKEL.

Improvement in Shirts.

No. 130,056. Patented July 30, 1872.

Fig. 3. Fig. 4. Fig. 1. Fig. 2.



No. 174.
Cluett et al.
Claflin et al. } p. 740.

Witnesses:
J. Felbel
E. Wolff

Inventor:
C. J. Kaskel
By attorney
J. C. McIntire

each case (and can be always fixed below that part of the bosom which is generally exposed to view).

Having as its object to fix the line at which the bosom shall buckle or hinge, according to the shape of the person, my invention consists in making the bosom of a shirt with a narrow belt or portion, located where it is designed to have the bend or fold in the bosom occur, and so composed of a less number of thicknesses or otherwise so made that when the whole bosom is laundried this belt or
742 strip (which is to form the hinge, so to speak) shall be much more flexible than any other part of the bosom, whereby I am enabled to regulate and determine, in every instance, the line or precise locality at which the buckling shall occur, and insure the maintenance of that part of the bosom which is generally exposed to view in an uninjured condition, all as hereinafter explained.

To enable those skilled in the art to make and use my invention, I will describe by reference to the accompanying drawing some of the best modes of carrying out my invention.

(Here follows diagram marked p. 740.)

At Figs. 1 and 2 are illustrated, in face or plain view and vertical section, a shirt-bosom made according to my invention, and at Figs. 3 and 4 are illustrated, in similar views, another mode of carrying out the same. The narrow strip or belt embraced between the horizontal dotted lines in Figs. 1 and 3 represents that portion of the bosom which is made quite flexible to insure the bending along in this belt, or to constitute a sort of hinge to the bosom, and this belt or flexible portion should be located according to the shape of the wearer, and at that point between the upper and lower extremities of the bosom at which would exist the greatest tendency to bend or buckle. In a shirt for a person of full habit this hinge portion or belt should be located much higher up than in one for a slender man. The location of the flexible belt or strip must in each case be determined according to the figure of the person, and in the judgment of the experienced shirt-maker who takes the measure.

I propose to have the flexible strip or belt generally about from three-eighths to three-quarters of an inch in width. The exact width of this flexible strip or portion is not, however, important, and may be varied as circumstances may require or experience suggest. To produce the flexible band or strip in the bosom, I propose to have this part formed of fewer thicknesses of material, either as seen at Figs. 1 and 2, where the middle or interposed piece *a* is cut away at *b* to leave only the outer and back layers of the stuff (the edges of the cut-out layer *a* being stitched to the backing of the bosom), or as seen at Figs. 3 and 4, where both the backing and the intermediate thickness of the muslin are cut away and stitched together, leaving only the face or front thickness of the bosom. By thus forming the belt or strip of one or two thicknesses, while the rest of the bosom below and above is composed of a greater number of thicknesses, the thin portion or belt will be quite flexible after the shirt shall have been laundried, while the rest of the bosom will be quite stiff;

but the methods shown for producing the flexible belt or hinged strip at the required locality to insure the buckling of the bosom at such point only are not indispensable to the carrying out of my invention, the gist of which rests in the idea of having the bosom made with a narrow belt or line located at the point where it is intended the bosom shall buckle over or fold, and so that the bosom above and below this flexible strip shall be kept in a comparatively smooth or unrumpled condition.

It is a quite common practice for persons to form a plait or fold across the bosom of the shirt when putting it on (which will be hidden by the vest), to prevent the buckling and riding up and crumpling of the shirt, and this fold is generally made higher or lower on the bosom, according to the shape of the wearer, and answers admirably the purpose of keeping smooth and in place the upper portion of the bosom, though it, of course, entirely defaces that portion which is broken down to form the fold or hinge-like strip. It will be understood that by making the bosom with a strip or belt of much greater flexibility than the rest, and locating this flexible portion properly in relation to the upper and lower portions, according to the shape of the person, the bosom will buckle or bend at the flexible strip, and when distended again, as the person assumes an erect position, will not present a rumpled-up or crinkled appearance.

Having so fully explained my invention that the skilled manufacturer or shirt-maker can make and use it, and wishing it to be understood that my invention may be carried out in other ways than those shown, and may be applied to other kinds of shirt-bosoms, what I claim as new, and desire to secure by letters patent, is—

A shirt-bosom having a flexible belt or strip located to operate substantially as described, for the purposes set forth.

In testimony whereof I have hereunto set my hand and seal this 10th day of July, 1872.

CÆSAR J. KASKEL. [L. S.]

Witnesses:
J. N. MACINTIRE.
J. FELBEL.

744 UNITED STATES PATENT OFFICE.

AUGUSTUS D. MARR, of Boston, Massachusetts, assignor to himself and John H. C. Munsey, of same place.

Improvement in Shirts.

Specification forming part of Letters Patent No. 134,909, dated January 14, 1873.

To all whom it may concern:

Be it known that I, Augustus D. Marr, of Boston, of the county of Suffolk and State of Massachusetts, have invented a new and useful improvement in shirts or various other articles of like character; and do hereby declare the same to be fully described in the

A. D. MARR.

Shirts.

No. 134,909. Patented Jan. 14, 1873.

Fig 1

Fig 3

No. 144.
Cluett et al.
&
Claflin et al. } p. 743.

Fig 2.

Witnesses

S. W. Piper.

L. N. Miller

Augustus D. Marr

by his attorney

R. H. Eddy

following specification and represented in the accompanying drawing, of which—

(Here follows diagram marked p. 743.)

Figure 1 denotes a front view of a shirt provided with my invention. Fig. 2 is a transverse section of the bosom-front and parts of the shirt.

In this shirt, what is termed the bosom front or facing A is applied to the shirt-body B, so that one-half of the said front may be folded back upon the other half and buttoned upon the buttons thereof, such front being furnished with buttons *a a* at one edge and button-holes *b b b* in the opposite part, as shown. There is to the shirt-body another set of buttons, *c c c*, for the movable half of the bosom-front to button upon. The shirt-bosom, back of the front, is to open as in ordinary shirts, or the opening may be down the back of the shirt.

In carrying out my invention I combine with such bosom front or facing one or more half fronts or flies, C D, of the shape of, and arranged underneath, the movable half of the bosom front or facing, or between such and the shirt-bosom, each fly being provided with button-holes to button upon either set of the buttons. I usually form each fly partly of a lining or piece of cloth shaped like the bosom-front, and folded at its middle, the rest of the fly being a separate piece of cloth of desirable material. The lining cloth is to be of a color different from that of the bosom-front, so that when the movable half of the latter is folded back upon the other half of it a bosom-front of a different color—as red, for instance—will be shown, the main front being gray or blue mixed. The outer surface of the second or next fly and the inner surface of the first fly may be made by a single piece of blue cloth, doubled on itself, and provided with button-holes to button on the buttons. The edges of each fly and the bosom-front may be bound with binding.

From the above it will be seen that in making the shirt bosom-front I take two or more pieces of cloth differing in color, but alike in shape. Each piece is laid upon the other, one-half the first piece being connected or sewed at the edges, or otherwise, to that half of the second covered by it. This latter half of the second piece is to be similarly connected to the half of the third covered by it, the whole being so that when the first piece is folded the second piece will be shown unfolded, and when the second is folded the third will be seen unfolded and the first be folded. In this way a folding shirt-bosom may be produced of three pieces of cloth of different colors, which may be made to show a front of either color.

There may be other ways of making the flies, but that described I prefer because each piece of cloth when unfolded shows no seam down its middle.

Fig. 3 exhibits the above-described way, these pieces of cloth A′ B′ C′ are to be laid together to form the flies. If we suppose A′ to be gray, B′ to be red, and C′ to be blue in color, half of B′ and half of A′ will constitute the first fly C, half of B′ and half of C′ making

the second fly D. According as each piece A′, B′, or C′ is unfolded will the front surface of the shirt-front vary in color.

From the above it will be seen that the purpose of the invention is to enable the bosom of a shirt or garment to be folded so as to represent at one time a front of one color and at another time one of a different color.

What I claim is—

1. A folding shirt or garment front or facing, A, made or provided with one or more reversible flies, C D, to fold at the middle, and over and button from one side to the other of the front, all as and for the purpose set forth.

2. Two or more pieces, A′ B′ C′, of cloth, arranged as shown in Fig. 3, and connected as described, so as to form a shirt or garment front or facing with one or more reversible flies, C D, to operate as and for the purpose explained.

AUGUSTUS D. MARR.

Witnesses:
R. H. EDDY.
J. R. SNOW.

746 UNITED STATES PATENT OFFICE.

CHARLES W. JENKS, of Somerville, Massachusetts.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 135,478, dated February 4, 1873.

To all whom it may concern:

Be it known that I, Charles W. Jenks, of Somerville, of the county of Middlesex and State of Massachusetts, have invented a new and useful improvement in shirts; and do hereby declare the same to be fully described in the following specification and represented in the accompanying drawing, of which—

(Here follows diagram marked p. 745.)

Figure 1 is a front view, and Fig. 2 a vertical section, of a shirt having its bosom applied to the body in accordance with my invention.

The shirt A is of the kind which is closed on its front and open at back—that is, it has an opening from the rear of the collar-band down the back of the shirt. The bosom B, made of linen or other proper material in the form shown, or otherwise properly shaped, is along its upper edge, and for about half its length at its sides or lateral edges, sewed to the shirt-front, the bosom being otherwise left unattached to or disconnected from the shirt-front. In the drawing, the bosom B is shown in the form of a shield. It is attached to the shirt-body A on the line *a*, *b*, *c*, *d*, *e*, *f*, and *g*, but from *a* to *h* and *h* to *g* it is not sewed to the shirt-body, but left loose and separate

745

C. W. JENKS.

Shirt Bosoms.

No. 135,478. Patented Feb. 4, 1873.

Fig. 1

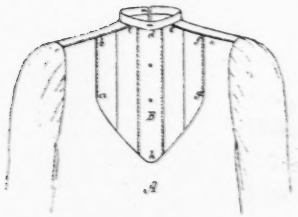
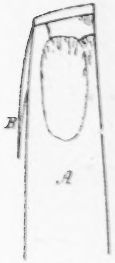


Fig. 2



No. 144.
Cluett et al.
v.
Claflin et al. } p. 745

Witnesses
S. N. Piper.
J. R. Snow

Charles W. Jenks
by his attorney
R. H. Eddy

I. L. LANDIS.

Shirt-Bosom Supports.

No. 139,797. Patented June 10. 1873.

Fig. 1.

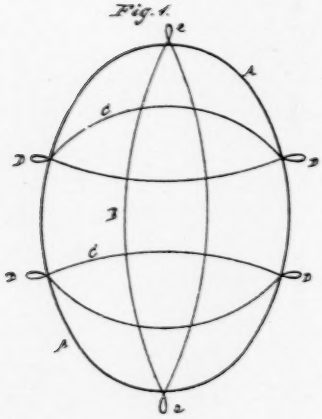
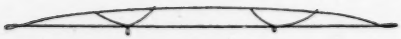


Fig. 2



No. 174.
Cluett et al.
v.
Claflin et al.
p. 747.

Witnesses:

Henry N. Miller
C. L. Guest

Inventor.

Israel L. Landis
per
Alexander Mason
Attorneys.

therefrom, there being an open space between the bosom and the front of the body.

This construction of the shirt, or having the bosom on its lower half or portion unattached to the shirt-front, prevents the bosom from wrinkling horizontally when the wearer may bend forward, as the bosom, being stiff, will slide more or less down on the shirt during descent of the breast, and during rise of the latter the lower half of the bosom will slide upward on the front, thus adapting itself to the motions of the body of the wearer without being wrinkled thereby.

I claim—

As an improved manufacture and my invention, a shirt on which the lower half or portion of the bosom is unattached to the shirt-front, except by the upper portion or rest of the said bosom being sewed or connected at its edges to the front, all being substantially as shown and described.

CHARLES W. JENKS.

Witnesses:
R. H. EDDY.
J. R. SNOW.

748 UNITED STATES PATENT OFFICE.

ISRAEL L. LANDIS, of Lancaster, Pennsylvania.

Improvement in Shirt-Bosom Supports.

Specification forming part of Letters Patent No. 139,797, dated June 10, 1873; application filed April 26, 1873.

To all whom it may concern:

Be it known that I, Israel L. Landis, of Lancaster, in the county of Lancaster and in the State of Pennsylvania, have invented certain new and useful improvements in shirt-bosom expanders; and do hereby declare that the following is a full, clear, and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon, making a part of this specification.

The nature of my invention consists in the construction and arrangement of the skeleton wire-frame for expanding the bosoms of shirts, as will be hereinafter set forth.

(Here follows diagram marked p. 747)

In the annexed drawing, A represents a wire bent in oval shape, having its two ends joined, and which form the outline of the frame. B C C represent wires also, which are bent in oval shape, and which have loops D D and *e* formed at their ends. The ovals C C are placed across the wire A in the direction of its shortest diameter, and are secured upon it at a suitable distance apart, as is represented. The oval B is secured to the wire A in the direction of its

longest diameter. These ovals, when secured together, make a light but firm and elastic expander. One of the loops *e* is buttoned in the collar-button of the shirt, and the other to a button near the waist. The loops D D fasten upon buttons at the sides of the bosom.

It will be seen that this expander is connected to the bosom at six different points, and in such manner that it is kept expanded and free from contact with the body of the person wearing it.

Having thus fully described my invention, what I claim as new, and desire to secure by letters patent, is—

The oval A, in combination with the ovals C C and B, which latter are provided with loops, the several parts being constructed as and for the purpose set forth.

In testimony that I claim the foregoing I have hereunto set my hand this 17th day of April, 1873.

ISRAEL L. LANDIS.

Witnesses:
C. L. EVERT.
A. N. MARR.

750 UNITED STATES PATENT OFFICE.

GEORGE C. THOMAS, of Chicago, Illinois.

Improvement in Shirts.

Specification forming part of Letters Patent No. 139,933, dated June 17, 1873; application filed April 17, 1873.

To all whom it may concern:

Be it known that I, George C. Thomas, of Chicago, in the county of Cook and State of Illinois, have invented certain new and useful improvements in shirts; and I do hereby declare the following to be a full, clear, and exact description thereof, which will enable others skilled in the art to which my invention appertains to make and use the same, reference being had to the accompanying drawing forming part of this specification, in which—

(Here follows diagram marked p. 749.)

Figure 1 is a front view of a shirt embodying my said improvement, and Fig. 2 is a like view of the same with the bosom removed.

Similar letters of reference indicate like parts in both figures of the drawing.

My invention has for its object to provide a shirt made open at the front, whereby the same may be more easily adjusted; and the improvement consists in the form of the front of the shirt and the manner of attaching the bosom thereto, all of which will be more fully understood by the following description.

In the accompanying drawing, A represents the shirt-body, which is made of any suitable cloth, and is provided with a neck-band, *a*, in the usual manner. The body is made open at the front its entire

G. C. THOMAS.

Shirts.

No. 139,933. Patented June 17, 1873.

No. 174.
Cluett et al.
v.
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Fig. 1.

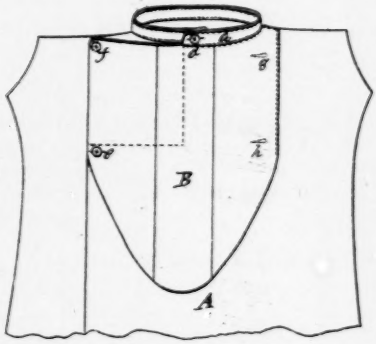
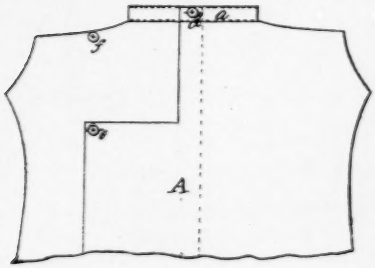


Fig. 2.



Attest;
A. H. Sherburne
O. P. Briggs

Inventor;
George C. Thomas
by Sherburne & Co
Attorneys

length, and is so arranged as to allow one of the parts to lap over or upon the other, and are secured one to the other by means of buttons *d e*, as shown in Fig. 2. B is the bosom, which is made of linen, plaited in the usual manner, and shaped in the form shown in Fig. 1. One side of the upper portion of the bosom is permanently attached to the lower edge of the neck-band and to the shoulder of the body, and is also attached or stitched along its side for about one-half its length to the body; the opposite side of the bosom extends across over the lap in the body and is secured to the same by buttons *e* and *f*, as shown in Fig. 1, thus leaving the lower portion of the bosom loose or disconnected from the front of the body. I sometimes construct the bosom independent of or separate from the body, and attach the same thereto by means of buttons, as shown at *g h*, Fig. 1, the object of which is to allow the bosom to be changed when desired.

It will be observed that the advantages of a shirt open at the front, and the bosom attached as described, are several: First, the shirt is more easily adjusted; second, the bosom may be readily changed, or is more easily ironed; and, third, the lower portion of the bosom being disconnected from the body, the former is prevented from being wrinkled horizontally by the forward bending of the wearer, as the lower portion of the bosom will slide downward on the body during the descent of the breast, and will move upward as the wearer resumes a natural position, thus adapting itself to the position of the body.

Having described my invention, I claim—

The shirt-body A made open at the front, in combination with the bosom B, one side of which is attached to the body in the manner described, so that when the opposite side of the bosom is buttoned to the body the lower portion of the bosom will be disconnected from the shirt front, as specified.

The above specification of my invention signed by me this 7th day of February, 1873.

GEORGE C. THOMAS.

Witnesses:
N. H. SHERBURNE.
O. P. BRIGGS.

752 UNITED STATES PATENT OFFICE.

GEORGE F. JOHNSON, of Philadelphia, Pennsylvania, assignor of two-thirds his right to Washington G. Walter and D. W. J. Hutton, of same place.

Improvement in Shirt-Bosom Supporters.

Specification forming part of Letters Patent No. 140,373, dated July 1, 1873; application filed May 3, 1873.

To all whom it may concern:

Be it known that I, George F. Johnson, of the city and county of Philadelphia and State of Pennsylvania, have invented a new and

useful improvement in shirt-bosom protectors and retainers; and I do hereby declare the following to be a clear and exact description of the nature thereof, sufficient to enable others skilled in the art to which my invention appertains to fully understand, make, and use the same, reference being had to the accompanying drawings making part of this specification, in which—

(Here follows diagram marked p. 751.)

Figure 1 is a front view of the device embodying my invention. Fig. 2 is a side view thereof. Fig. 3 is a top or plan view thereof.

Similar letters of reference indicate corresponding parts in the several figures.

My invention consists in a frame, applicable to a shirt bosom, for retaining the proper shape thereof, preventing gathering and ruffling at all points and protecting it against sweat or moisture of the body.

Referring to the drawings, A represents a light frame which is adapted to be applied to the rear of a shirt-bosom, and consists of the side pieces B B, the center piece or pieces C C, the horizontal bottom piece D, the top piece E, which is curved to conform to the shape of the neck of the wearer, the horizontal piece or pieces D′ and the horizontal pieces or tapes D″ D″, between the top and bottom pieces.

It will be seen that the side pieces B B and top and bottom pieces D E form a continuation of each other and constitute a frame of the shape of the bosom to which it is applicable.

The piece or pieces C C brace the frame vertically and the piece or pieces D′ D′ brace the same horizontally, so that, while the frame is light in structure, it is sufficiently firm and strong for the purpose intended.

The frame A will be of bowed or curved form and have at its corners tapes, hooks, eyes, or other fastenings, F, for securing the frame to the rear of a shirt-bosom, so that the bosom may be said to be stretched on the frame A; and when the shirt and frame are in use the bosom is prevented from coming together either vertically or horizontally.

A loop or button may be applied to the top and bottom of the central piece C for attachment, respectively, to the top or collar band of the shirt or bosom and to the bottom of the bosom. This prevents the rising of the bosom and gathering and rumpling thereof in vertical direction. The fastenings F prevent the bosom from coming together at the neck and waist of the wearer, which otherwise is a common cause of complaint; and in case there is any tendency of said bosom coming together or gathering at the sides or between the neck and waist, tapes may be applied to the sides B B; or ordinary pins may be there employed to prevent such movement.

Owing to the interposition of the frame between the shirt-bosom and body of the wearer the bosom is thrown out and sweat or moisture is prevented from reaching the bosom, whereby the latter not only retains its smooth and unbroken appearance, but is pro-

G. F. JOHNSON.

Shirt Bosom Supporters.

No. 140,373. Patented July 1, 1873.

Fig. 1.

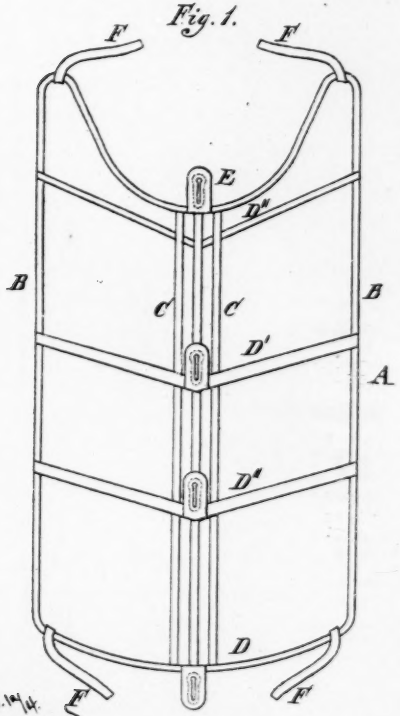
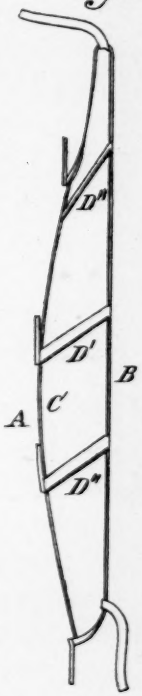
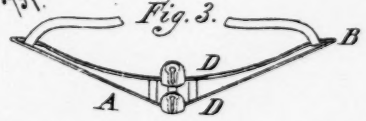


Fig. 2.



No. 14/4.
Quett et al.
Claflin et al. } p. 751.

Fig. 3.



Witnesses:

Millard F. Walton,

Robert H. Hoz.

Inventor:

George F. Johnson.

by John A. Wiedersheim & Co.

Atty.

754

I. M. POST.

Shirt-Bosom Supports.

No. 140,537. Patented July 1, 1873.

No. 174.
Cluett et al.
v.
Claflin et al.
p. 754.

Witnesses.

Harry King
H. H. Dodge.

Inventor.

Isaac M. Post.
by Dodge & Son
Attys.

tected against the unsightly and unpleasant effects due to such sweat or moisture.

For a shirt opening in the back the frame is secured in place to the bosom before the shirt is applied to the body; but in shirts open in the front the frame is secured to one half or flap of the shirt. The shirt is then applied and the frame subsequently secured to the other half or flap of the shirt.

The pieces constituting the frame may be constructed of spring-steel, whalebone, reeds, rattan, or other suitable elastic and strong material.

I am aware that a longitudinal strip and transverse pieces attached thereto have been employed for attachment to a shirt-bosom; but in such device no provision is made for preventing gathering at the neck, sides, and bottom or waist portion of the bosom, and all of the edges of the aforesaid strip and pieces are exposed and liable to pierce the underclothing of the wearer and chafe the body; but

753 Having described my invention and the advantages thereof, I claim as an improvement—

The frame A, consisting of the vertical side pieces B B, the horizontal piece D, and horizontal neck-piece E, in combination with the central strip or strips C C and horizontal piece or pieces D′ D′, substantially as and for the purpose set forth.

The above signed by me this 24th day of April, 1873.

G. F. JOHNSON, M. D.

Witnesses:

JOHN A. WIEDERSHEIM.

MILLARD F. WALTON.

755 UNITED STATES PATENT OFFICE.

ISAAC M. POST, of Philadelphia, Pennsylvania.

Improvement in Shirt-Bosom Supports.

Specification forming part of Letters Patent No. 140,537, dated July 1, 1873; application filed November 9, 1872.

To all whom it may concern:

Be it known that I, Isaac M. Post, of Philadelphia, in the county of Philadelphia and State of Pennsylvania, have invented certain improvements in false bosoms for shirts, of which the following is a specification:

My invention consists of a false shirt-bosom for gentlemen's wear, composed of wire-gauze, to be worn under the linen bosom, for the purpose of keeping the latter in shape, and preventing it from becoming mussed or soiled by perspiration, &c., the same constituting a new article of manufacture.

The drawing represents a front view of my gauze bosom as made for sale and ready for use.

(Here follows diagram marked p. 754.)

To make these bosoms I take wire-cloth made of brass wire, having from forty to sixty meshes to the inch, and cut therefrom the bosoms, of the form substantially as shown in the drawing. I prefer to make them of a width not greater than the plaited portion of the linen bosom, and of such a length as not to reach quite to the waistband of the pants when in position.

As shown in the drawing, the upper end is hollowed out to fit the neck, and is provided at the center with a loop, *c*, of elastic or other suitable material, by which it is secured to the button of the neck-band of the shirt. I then cover the edge all around with a binding, *e*, of tape or similar material, which is stitched fast, and which can be readily done on a sewing-machine.

In making these bosoms care should be taken to use gauze composed of annealed wire, so as to render it pliable and to permit of its being bent or shaped as desired. They should also be cut from the sheet in such a manner that their greatest length will be in line with the filling or of the gauze, as those wires are bent, while the warp wires are straight, thus rendering it pliable and yielding lengthwise, while it is comparatively rigid or stiff crosswise. In this way I produce a light article, which not only serves to support the linen bosom and prevent it from being mussed and creased, but which also serves to keep the linen bosom away from the body, and thereby prevents it from becoming soiled by perspiration, especially in warm weather. Being light and pliable it yields readily to the motions or positions of the body, and can, therefore, be worn with perfect comfort.

If desired the gauze may be plated with silver or nickel to prevent it from being discolored, or staining the clothing when wet, or moistened by the perspiration of the body.

Having thus described my invention, what I claim is—

As a new article of manufacture, the shirt bosom or shield, constructed of wire-gauze, as and for the purpose herein described.

ISAAC M. POST.

Witnesses:
REUEL KEITH.
JOS. T. K. PLANT.

757 UNITED STATES PATENT OFFICE.

SOLOMON S. GRAY, of Boston, Massachusetts.

Improvement in Shirts.

Specification forming part of Letters Patent No. 145,414, dated December 9, 1873; application filed September 22, 1873.

To all whom it may concern:

Be it known that I, Solomon S. Gray, of Boston, in the county of Suffolk and State of Massachusetts, have invented a new and useful improvement in shirts for gentlemen's wear, of which the follow-

S. S. GRAY.

Shirts.

No. 145,414.

Patented Dec. 9, 1873.

No. 174.
Cluck et al.
v.
Claflin et al.
p. 756

Fig 1

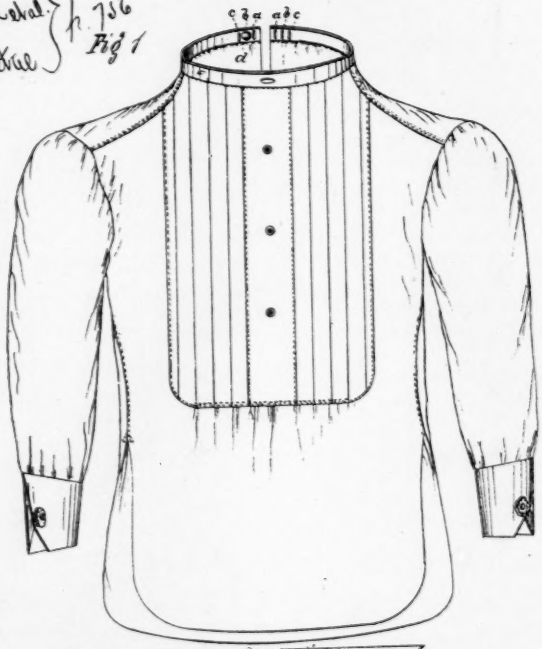


Fig 2

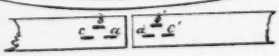
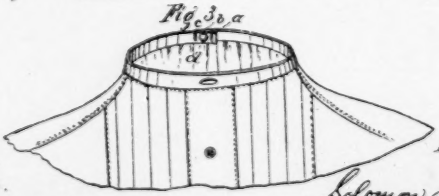


Fig 3



Witnesses.
S. A. Frood.
Wm. P. Edwards.

Inventor.
Solomon S. Gray.

ing, taken in connection with the accompanying drawings, is a specification:

My invention relates to the means employed for securing the two ends of the neck-binding together, by means of which the size of the binding may be adjusted to the size of the neck of the wearer, and one shirt may be made adaptable to two or more sizes; and my invention consists in making two or more button-holes in each end of the neck-binding, in combination with an adjustable or removable stud or other fastening for securing the two ends of said binding together.

As shirts are now manufactured and sold, the sizes are determined by the measurement of the neck-binding, there being a separate size for every half inch of increase in the length of the neck-binding, from thirteen to seventeen inches in length, making nine sizes in all, and the dealer is compelled to put in a stock of nine dozen shirts in order to be able to fit his customers, involving a greater investment than many dealers care to make in one line of goods, it being understood that every dealer must keep several styles or patterns, both of cut and material, and a full line of each. Now, if the dealer can have on his shelves a full line of sizes of shirts by buying three dozen shirts of each style of cut and pattern, instead of nine dozens, as heretofore, he will be able to save two-thirds of the capital now invested in shirts to invest in other lines of goods.

In the drawings—

(Here follows diagram marked p. 756.)

Figure 1 is a front view of a shirt embodying my invention, with the neck-band open or unbuttoned. Fig. 2 is a similar view of the upper portion of the same with the binding buttoned together, and Fig. 3 shows a modification of the arrangement of the button-holes in the binding.

In order to carry out my invention, I make two or more button-holes in each end of the neck-binding, said button-holes being at distances from each other of one-fourth of an inch. I prefer to make three button-holes in each end of the binding, as seen at *a b c* and *a′ b′ c′*, though a greater or less number may be used, if desired; and to secure the binding together about the neck, I use a movable stud or other fastening, *d*, instead of a fixed button If the stud *d* be placed in the button-hole *b* and is buttoned into *b′*, one size of shirt is obtained. If a larger size is desired, the stud *d* should be set in *a* and buttoned into *a′*, and if a smaller size is wanted, the stud *d* is placed in *c* and buttoned into *c′*, thus making one shirt adapted to three regular sizes, with the stud in the center of the neck in front and rear in each case; and, in addition, if, as it sometimes happens, an intermediate size is desired, the stud may be set in *b* and buttoned into *a′* or *c′*, in which case the stud *d* will be slightly out of center, or, in other words, will not be equidistant from the front stud or button, measuring in opposite directions around the neck; but the difference will be so slight as to be unobjectionable.

What I claim as new, and desire to secure by letters patent of the United States, is—

A shirt provided with two or more button-holes in each end of the neck binding or band, in combination with a movable stud or fastening for securing said band together, substantially as and for the purpose set forth.

SOLOMON S. GRAY.

Witnesses:
S. A. WOOD.
WM. P. EDWARDS.

759 UNITED STATES PATENT OFFICE.

ISRAEL L. LANDIS, of Lancaster, Pennsylvania.

Improvement in Combined Shirt-Bosom Supports and Chest-Protectors.

Specification forming part of Letters Patent No. 146,919, dated January 27, 1874; application filed July 14, 1873.

To all whom it may concern:

Be it known that I, Israel L. Landis, of Lancaster, in the county of Lancaster, and in the State of Pennsylvania, have invented certain new and useful improvements in combined breast-protector and bosom-expander; and do hereby declare that the following is a full, clear, and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon, making a part of this specification.

The nature of my invention consists in combining, with a shirt-bosom expander, a case, within which the expander is placed, and which is made of chamois-skin on the inner side, and of flannel on the outer side, of the bosom-expander, and forming a lung-protector, as hereinafter more fully set forth.

In order to enable others skilled in the art to which my invention appertains to make and use the same, I will now proceed to describe its construction and operation, referring to the annexed drawing, in which—

(Here follows diagram marked p. 758.)

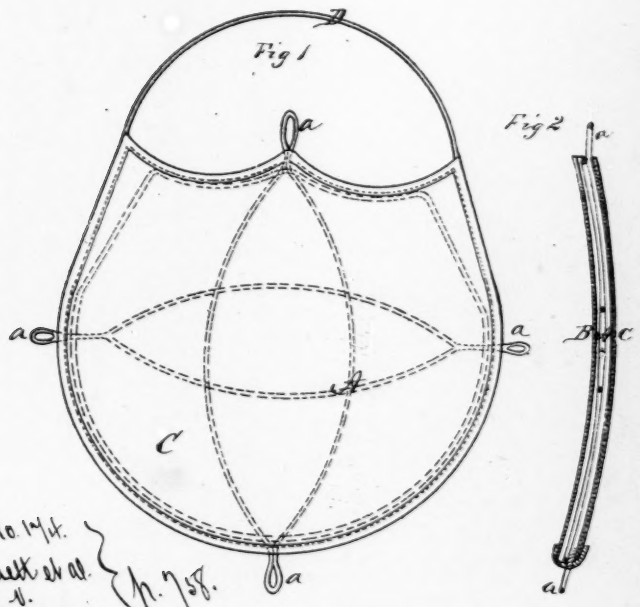
Figure 1 is a front view, and Fig. 2 a longitudinal section, of my combined shirt-bosom expander and lung-protector.

A represents a shirt-bosom support or expander, made of wire or any other suitable material, and which may be made substantially in the manner described in my letters patent No. 139,797, dated June 10, 1873, or in any other manner that will answer the same purpose. This support or expander I inclose in a case made of a piece, B, of chamois-skin, and a piece, C, of flannel, the latter being on the front or outer side, and the former on the inner side, of the expander. The loops *a a* of the bosom-expander A pass through the edges of the casing thus made, so as to be buttoned to the shirt; and

I. L. LANDIS.

Combined Shirt-Bosom Supports and Chest-Protectors.

No. 146,919. Patented Jan. 27, 1874.



No. 174.
Cluett et al.
v.
Claflin et al.
} p. 758.

Witnesses:
F. L. Quand
C. L. Ewert

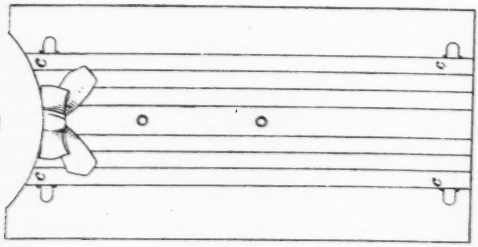
Inventor.
Israel L. Landis.
per Alexander Mason
Attorneys.

T. L. DALTON.

Shirt-Bosom Supporters.

No. 147,484. Patented Feb. 17, 1874.

Fig 3



No. 174.
Clyett et al.
v.
Claflin et al. } p. 760.

Fig 2

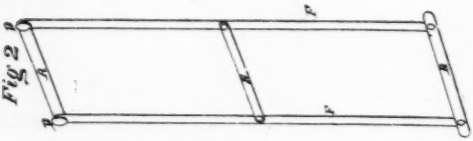
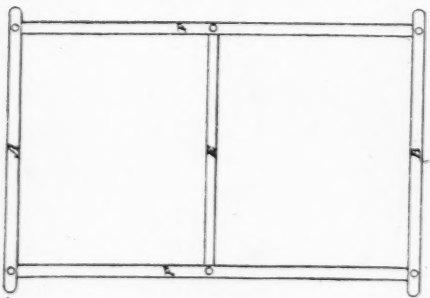


Fig 1



Attest,
Alonzo C. Farnham
William W. Browning

Inventor,
Thomas Lloyd Dalton

to the upper edge of the case is attached an elastic band, D, to be passed around the neck of the wearer.

The casing B C, from its position on the breast of the wearer, forms a protection for the lungs.

Having thus fully described my invention, what I claim is new, and desire to secure by letters patent, is—

In combination with a shirt-bosom expander, A, a surrounding case made of chamois-skin, B, and flannel C, substantially in the manner and for the purposes herein set forth.

In testimony that I claim the foregoing I have hereunto set my hand this 9th day of June, 1873.

ISRAEL L. LANDIS.

Witnesses:
WM. B. WILEY.
A. N. MARR.

761 UNITED STATES PATENT OFFICE.

THOMAS L. DALTON, of Brooklyn, New York.

Improvement in Shirt-Bosom Supporters.

Specification forming part of Letters Patent No. 147,484, dated February 17, 1874; application filed December 11, 1873.

To all whom it may concern:

Be it known that I, Thomas Lloyd Dalton, of Brooklyn, in the county of Kings, in the State of New York, have invented a new and useful device for supporting the bosom of a shirt to prevent it being ruffled or soiled by the motions of the body of the wearer; and I do hereby declare that the following is a full, clear, and exact description thereof, which will enable others skilled in the art to make and use the same, reference being had to the accompanying drawings forming part of this specification, in which—

(Here follows diagram marked p. 760.)

Figure 1 represents a face view of the frame or support. Fig. 2 is a perspective view of the same with studs attached. Fig. 3 represents a front view of the shirt-bosom with the support attached in position as when in use.

Similar letters of reference indicate corresponding parts.

The object of this invention is to prevent a shirt-bosom from being ruffled and soiled by wear, and to hold it straight and smooth while moistened by perspiration. The nature of this invention consists in placing an elastic stretcher on the back side of a shirt-bosom, out of view when worn upon a person, which will bend to accommodate the motions of the body, and to bring back the bosom to its proper position when the body again becomes erect. My invention consists in a rectangular frame made of thin pieces of metal, or any other suitable material, attached to a shirt-bosom by means

of studs, or by portions of the frame projecting through holes or loops formed in the bosom to receive them, whereby a shirt-bosom can be worn, and kept clean and tidy, for a much longer time than without such support.

A and B in the drawing represent the top and bottom strips of the frame or support connected by the side strips F. These strips project beyond the sides of the frame to enter into holes or loops C C made in the bosom to hold the support in position, and designed for a shirt which opens at the back.

When the support is designed for a shirt which opens in front, the top piece A of the frame is cut off even with the side pieces, and studs D D are fastened into the corners of the frame, and inserted through the bosom to hold it in its place. E is a cross-bar placed in the middle of the frame to support the center portion of the bosom.

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is—

A shirt-bosom stretcher and supporter consisting of the quadrangular frame A B E F, provided at its corners with studs or projections, all constructed and adapted to be applied to the shirt-bosom, as herein shown and described.

In testimony whereof I have hereunto set my hand and affixed my seal this 4th day of December, 1873.

THOMAS LLOYD DALTON. [L. S.]

In presence of—
ALONZO C. FARNHAM.
W. W. BROWNING.

763 UNITED STATES PATENT OFFICE.

THOMAS J. RICHARDS, of Philadelphia, Pennsylvania.

Improvement in Shirt-Bosom Protectors.

Specification forming part of Letters Patent No. 147,573, dated February 17, 1874; application filed January 28, 1874.

To all whom it may concern:

Be it known that I, Thomas J. Richards, of the city of Philadelphia, State of Pennsylvania, have invented certain new and useful improvements in shirt-bosom stretchers and protectors; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawings making a part of this specification, in which—

(Here follows diagram marked p. 762.)

Figure 1 represents a front view of the stretcher and protector, and Fig. 2 represents a vertical section through the same.

My invention relates to a shirt-bosom stretcher and protector as a new article of manufacture, it being composed of paper-board and

T. J. RICHARDS.

Shirt-Bosom Protectors.

No. 147,573. Patented Feb. 17, 1874.

Fig. 1.

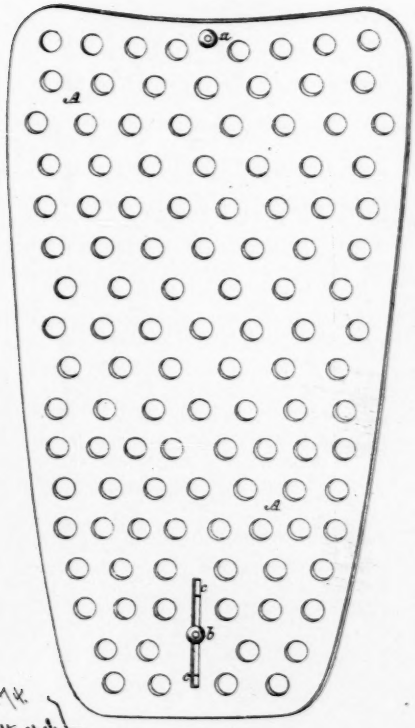


Fig. 2.

No. 174.
Ouett et al.
N.
Claflin et al
} p 762

Witnesses.
Jude Clinton
Edmund Masson

Inventor.
Thomas J. Richards.
By atty A. B. Stoughton

fastened to the shirt at the top and bottom to keep it in proper position.

To enable others to make and use my invention, I will proceed to describe the same with reference to the drawings.

The stretcher and protector A is made of paper or pasteboard, of sufficient thickness or strength to maintain its flat or uncreased condition, and should conform tc the shape and form of a shirt-bosom. For summer use I prefer to make the stretcher of perforated paper-board, as being cooler. For winter use it may be of plain board imperforate. The top of the stretcher is fastened to the collar or neck band of the shirt by a stud or button, *a*, and the lower end of it is similarly fastened, as at *b*, to the lower part of the shirt-bosom. For the lower fastening, an eyelet hole may be worked in the lower part of the shirt-bosom, through which the shank of a screw-stud is passed, and a slot, *c*, is formed in the stretcher so as to adapt it to the position of the eyelet and screw-stud. The shank of the screw-stud after passing through the eyelet in the shirt-bosom, then passes through said slot, and the nut-head of the screw-stud is screwed onto the shank. To give greater strength to the paper-board where the head of the screw-stud rests, a washer, *e*, of paper-board or other substance may be placed.

Common buttons, as fastenings for the stretcher, would not answer so well as the screw-studs, as the paper-board is too rigid to receive the common button.

This stretcher is quite cheap, so much so that when soiled or creased it may be thrown away and a fresh one applied.

What I claim as a new article of manufacture is—

A shirt-bosom stretcher and protector made solely of paper-board and united to the neck-band by a stud, as at *a*, and fastened at the lower portion of the shirt-bosom by the screw-stud *b* adjustable in the slot *c*, as and for the purpose described and set forth.

THOS. J. RICHARDS.

Witnesses:
A. B. STOUGHTON.
EDMUND MASSON.

765

UNITED STATES PATENT OFFICE.

AMOS W. THOMAS, of Philadelphia, Pennsylvania.

Improvement in Shirt-Bosom Supports.

Specification forming part of Letters Patent No. 150,631, dated May 5, 1874; application filed September 29, 1873.

To all whom it may concern:

Be it known that I, Amos W. Thomas, of Philadelphia, in the county of Philadelphia and State of Pennsylvania, have invented certain new and useful improvements in shirt-front supporters; and I do hereby declare the following to be a full, clear, and exact description of the invention, such as will enable others skilled in the

art to which it pertains to make and use it, reference being had to the accompanying drawings, which form part of this specification, in which—

(Here follows diagram marked p. 764.)

Figure 1 is a front view of my invention, and Fig. 2 a horizontal section.

My invention has for its object to provide a device for supporting shirt-fronts, so as to prevent the latter from becoming crumpled or creased by bending while being worn.

The nature of my invention consists in the peculiar construction and combination of parts, having reference particularly to a method whereby the supporter and shirt-front may be secured together by means of buttons or studs passing simultaneously through both, as hereinafter more fully described.

Referring to the accompanying drawing, A shows the main stay of the skeleton which forms the supporter, said stay being constructed of material having sufficient rigidity or sustaining power for the object in view, and yet susceptible of being pierced for the purpose of forming stud or button holes *a a*. For the purposes of the case, two parallel wires, *a' a'*, woven in a textile covering or "twin-spring" wire, will answer admirably, that part of said covering between the wires affording ground for the button or stud holes.

In order to give a finished appearance, as well as to prevent injury to the wearer or unraveling of the covering, the stay is provided with metallic ends or caps.

B is a wire, bent, as shown, to form three sides, *b b b*, of an oblong, its ends being turned down obliquely and crossed, forming braces b^1 b^1, which are secured by suitable means at the points b^3, said wire B being also further attached to the stay A at the point b^2. C C are auxiliary braces secured to the wire B at the points *c c'*. D D are buttons secured to the corners of the supporter, designed for attachment to the shirt-front, which should be furnished with holes or loops for that purpose, or the buttons may be dispensed with and the corners of the supporter fitted in suitable pockets on the shirts. E is a black or flannel or other suitable material to be employed when it is desired to secure warmth and make the device available as a chest-protector.

It is not designed, in the first instance, to pierce holes in the main stay A. The device is to be made up and sold, and the holes afterward pierced of a size, and at the requisite distances apart, to suit the studs and shirts of the purchasers.

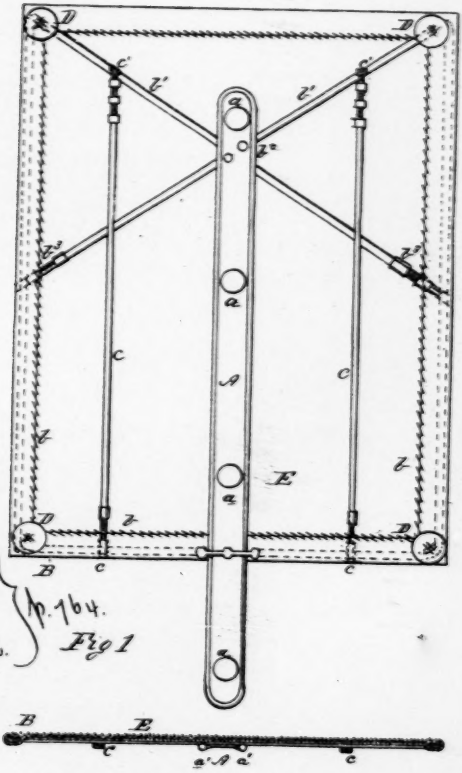
It will be observed that by the peculiar arrangement of the wire B with reference to the main stay A, the upper extremity of the latter is some distance below the higher corners of the former, thus leaving a depression or unwired space between said corners, which will be found to render the device more comfortable and easy to the chest than if the wire proceeded straight across from corner to corner, forming a perfect oblong. So, too, the wires B being crossed, as shown, at the upper extremity of the main stay, and proceeding thence to the points of attachment b^3, form braces for stiffening the

764

A. W. THOMAS.

Shirt-Bosom Supports.

No. 150,631. Patented May 5, 1874.



No. 174.
Cluett et al.
v.
Claflin et al.
p. 764.

Fig 1

Fig 2

WITNESSES
Eugene F. Wilson.
J. P. Connolly

By Connolly Bros.

INVENTOR
Amos W. Thomas

Attorneys.

J. M. MAURER.

Shirt-Bosom Supports.

No. 153,444. Patented July 28, 1874.

Fig. 1.

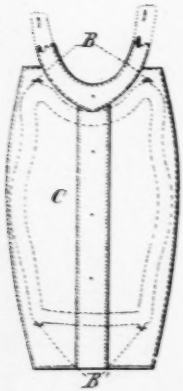


Fig. 2.

No. 174.
Cluett et al.
v.
Claflin et al.
p. 767.

WITNESSES.
W. T. Newman
A. M. Bass.

INVENTOR
Joseph M. Maurer.
By Leggett & Leggett.
Attorneys.

device, which should be less yielding above than below its horizontal diameter.

Further, it will be seen that the exterior outline of the device and the upper crossed braces are, by the peculiar arrangement shown, formed of a single piece of wire, whereby the troublesome and relatively costly expedient of uniting several pieces by clamps is dispensed with.

What I claim as my invention is—

1. In combination with a shirt-bosom support, the main stay A, constructed and adapted to be readily pierced with holes for studs or buttons, substantially as described and shown.

766 2. The combination, with the outline or border wire B and main stay A, of the oblique intersecting braces b^1 b^1, arranged as shown and described, said braces being continuations of the border wire.

3. In combination with the oblique braces b b, the auxiliary braces C C, substantially as set forth and described.

4. In combination with the main stay A, constructed as described, the flannel back E, for the purpose set forth.

In testimony that I claim the foregoing, I have hereunto set my hand this 26th day of September, 1873.

AMOS W. THOMAS.

Witnesses:

W. W. DOUGHERTY.
M. DAN'L CONNOLLY.

768 UNITED STATES PATENT OFFICE.

JOSEPH M. MAURER, of Baltimore, Maryland.

Improvement in Shirt-Bosom Supports.

Specification forming part of Letters Patent No. 153,444, dated July 28, 1874; application filed June 13, 1874.

To all whom it may concern:

Be it known that I, Joseph M. Maurer, of Baltimore, in the county of Baltimore and State of Maryland, have invented certain new and useful improvements in shirt-bosom stays or supports; and I do hereby declare the following to be a full, clear, and exact description of the invention, such as will enable others skilled in the art to which it pertains to make and use it, reference being had to the accompanying drawings, which form part of this specification.

My invention relates to an improvement in stays or supporting-frames for shirt-bosoms, and a method of attaching the bosoms thereto.

In the drawings—

(Here follows diagram marked p. 767.)

Figure 1 is a front view, and Fig. 2 a side elevation, of my invention.

Said invention is composed of a continuous unbroken piece, A, shaped as shown in the drawing, so as to fit the neck, breast, and lower part of the chest. The frame A, formed as described, is made, preferably, of vulcanized rubber, or gutta-percha, or of metal, or other suitable substance, covered with gutta-percha, nickel, or other non-corroding material. At the corners near the shoulder are provided the lugs or buttons B, and at the lower corners similar lugs or buttons B′. The shirt-bosom to be attached to the frame is to be a separate and independent article, and is attached to the frame by loops or button-holes engaging with the lugs or button-holes B B′. These loops or button-holes upon the bosom are so placed that the frame A can be sprung into them, and retain the bosom upon itself by its own elasticity.

It will be obvious that the bosom C can be readily removed and replaced upon the frame A when necessary or desirable. It will also clearly appear that my device combines lightness, durability, and economy, inasmuch as the frame, with its attached and independent bosom, may be placed over a soiled garment, giving all the appearance and advantage of a clean shirt, likewise preventing the bosom from being mussed while worn.

I claim as my invention—

1. As a new article of manufacture, the shirt-bosom support, consisting of the elastic frame A, formed in one piece, and provided with the lugs or buttons B B′, as and for the purposes specified.

2. In combination with the frame A, formed as described, and provided with the lugs or buttons B B′, the separate and independent bosom C, adapted to be retained upon the frame A by the elasticity of said frame, substantially as and for the purpose described.

In testimony that I claim the foregoing I have hereunto set my hand this 12th day of June, 1874.

JOSEPH M. MAURER.

Witnesses:

LEVERETT L. LEGGETT.
J. TYLER POWELL.

770 UNITED STATES PATENT OFFICE.

GEORGE E. HALL, of Chicago, Illinois.

Improvement in Shirt-Bosom Supports.

Specification forming part of Letters Patent No. 156,155, dated October 20, 1874; application filed March 23, 1874.

To all whom it may concern:

Be it known that I, George E. Hall, of the city of Chicago, in the county of Cook and State of Illinois, have invented a new and use-

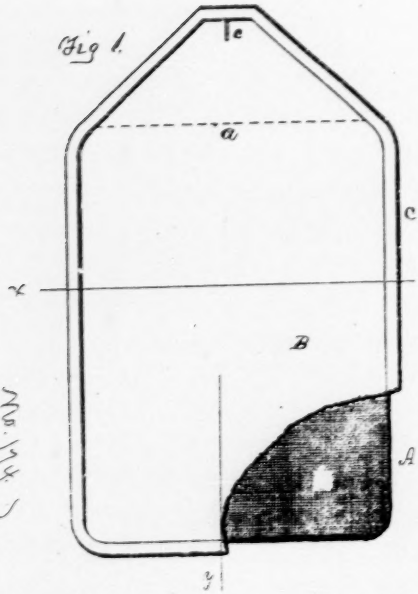
G. E. HALL.

Shirt-Bosom Supports.

No. 156,155.

Patented Oct. 20, 1874.

Fig 1.



No. 174.
Quest et al.
v.
Coffin et al.
p. 769.

Fig. 2.

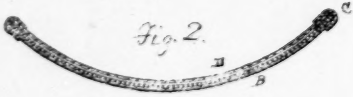
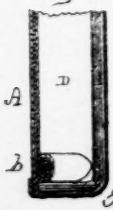


Fig 3



Witnesses.
Edward D. Upton
Homer Cook

Geo. E. Hall Inventor.

ful shirt-bosom supporter, of which the following is a full description, reference being had to the accompanying drawings, in which—

(Here follows diagram marked p. 769.)

Figure 1 is an elevation. Fig. 2 is a section at *x*. Fig. 3 is a section of part at *y*.

Gentlemen are greatly annoyed by the wrinkling of their shirt-bosoms; and this portion of dress is often unpresentable simply because wrinkled, and not because soiled. The object of my invention is to obviate the difficulty mentioned; and this I accomplish by the use of a supporter, which can be conveniently made from fine wire cloth, covered with common cotton cloth or flannel.

In the drawings, A represents a piece of fine wire cloth, the lower end of which is rolled over, as shown at *b*, Fig. 3. B is a piece of cotton cloth or other suitable covering for the front, and D a similar covering for the back side. A portion of the covering is cut away in Fig. 1 to show the wire cloth. The upper end of the wire cloth is at or near the dotted line *a*; and that part of the article above *a* consists of cloth alone, and is perfectly flexible. The wire cloth may be bent over at its upper end to prevent the wires from cutting the cloth B D. The edges may be bound, as represented at C, or the two pieces of cloth B D can be secured at the edges without the binding. The gauze is rolled at the bottom to form an enlargement, *b*, as it is desirable to have the article somewhat enlarged at that point.

In use, the supporter is to be placed beneath the shirt-bosom, and can be buttoned at the upper end onto the inner portion of the collar-stud, or onto a button provided for the purpose. It will be well to turn the shirt or bosom under the lower end of the supporter.

This article is efficient in preventing the wrinkling of the shirt-bosom, and also serves the purpose of a chest-protector.

I am aware that bosom-supporters have been before used formed of oblong or skeleton frames; and I do not, therefore, broadly claim such device.

The advantage presented by my invention is that, as the entire support is formed of wire cloth or gauze, the bosom has a support its entire surface, and cannot be broken, as where only a frame is used to support particular portions of the bosom.

Having thus fully described my invention, what I claim, and desire to secure by letters patent, is—

As a new article of manufacture, the shirt-bosom support herein described, consisting of wire cloth, interlining A, and back and front coverings B D, all constructed and combined as described, for the purposes specified.

GEO. EMMET HALL.

Witnesses:
EDWARD L. UPTON.
HOMER COOK.

772 UNITED STATES PATENT OFFICE.

ALEXANDER SINZHEIMER, of Philadelphia, Pennsylvania.

Improvement in Shirt-Bosoms.

Specification forming part of Letters Patent No. 161,286, dated March 23, 1875; application filed October 10, 1874.

To all whom it may concern:

Be it known that I, Alexander Sinzheimer, of the city and county of Philadelphia and State of Pennsylvania, have invented a new and useful improvement in shirt-fronts; and I do hereby declare the following to be a full, clear, and exact description of the nature thereof, sufficient to enable others skilled in the art to which my invention appertains to fully understand, make, and use the same, reference being had to the accompanying drawings making part of this specification, in which—

(Here follows diagram marked p. 771.)

Figures 1 and 2 are face views of the shirt-front embodying my invention. Figs. 3 and 4 are top-edge views, respectively, of Figs. 1 and 2.

Similar letters of reference indicate corresponding parts in the several figures.

My invention consists in janus-faced and reversible plaits at the front of a shirt-bosom at the sides of the center plait, said side plaits always constituting part of the visible bosom.

Referring to the drawings, A represents a shirt-front, which may be open in front or back, as desired, and is constructed with the center C and side plaits B, which are adapted to fold on the center C or the portion C′ aside of said center. These plaits are constructed with two faces, *a* and *b*, which may be plain or ornamented, and either face may be exposed by folding the plait inwardly or outwardly.

In Fig. 1 the plaits are folded outwardly, or against the portion of the shirt-front aside of the center C, so that the faces *a* of the plaits are exposed, and the shirt-front consists of the face *a* C *a*.

In Fig. 2 the plaits are folded inwardly, or against the center C of the shirt, and partly or entirely covering said center, so that the faces *b* of the plaits are exposed, and the face of the shirt-front may consist of the face *b b*; or, if a portion of the center C is uncovered, of the face *b* C *b*.

The stitching or needle work of the plaits may be plain or ornamental, and the two faces of each should be properly starched and ironed.

It will be seen that either face may be exposed or worn, so that two styles of shirt-front will be produced in one.

When the center C is soiled or mussed, the plaits are folded over

no. 174. Cluett et al. } p. 771
Claflin et al.

A. SINZHEIMER.
Shirt-Bosom.

No. 161,286. Patented March 23, 1875.

Fig. 1.

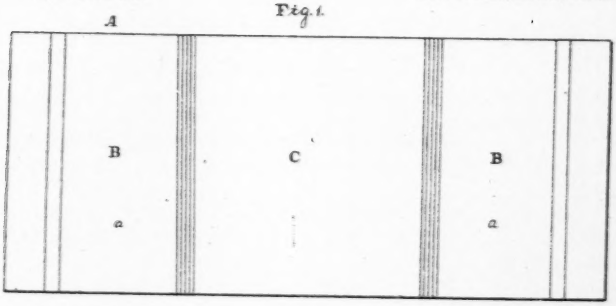


Fig. 2.

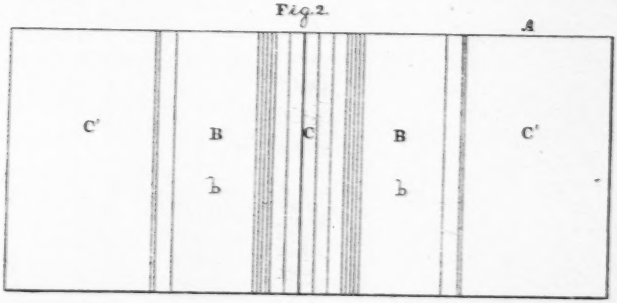


Fig. 3.

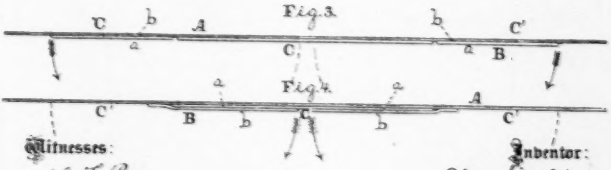


Fig. 4.

Witnesses:
L. F. Bros.
A. P. Grant.

Inventor:
Alex. Sinzheimer.
by John A. Dieterich
Atty.

and on the center, and thus they cover the same, whereby the clean faces *b* of the plait are in front and will be worn.

Should the faces *b* first be worn, and then become soiled or mussed, the plaits B are turned back from the center C, and folded on the portion C′ of the shirt aside of the center C, and thus have the face of the front consist of the face *a* C *a*, which is clean and serviceable.

It will also be seen that a shirt or shirt-front, so constructed, will render the same service as two shirt-fronts; but it requires but half of the number of washings, starchings, and ironings; consequently the shirt-front will last longer than usually.

The plaits B always constitute part of the visible bosom. Besides this the two faces of the plaits form variety in the appearance of the front, and thus increase the utility of the folding plaits.

The improvement is equally applicable to fixed shirt-bosoms, shirt-fronts, dickeys, &c.

I am aware that it is not new to construct a bosom that may be covered and uncovered.

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is—

The shirt-bosom, having janus-faced and reversible plaits B B, constructed and arranged substantially as described.

A. SINZHEIMER.

Witnesses:

JOHN A. WIEDERSHEIM.
A. P. GRANT.

774 UNITED STATES PATENT OFFICE.

ISAAC H. MAMBERT, of Troy, New York.

Improvement in Shirts.

Specification forming part of letters patent No. 219,284, dated September 2, 1879; application filed July 2, 1879.

To all whom it may concern:

Be it known that I, Isaac H. Mambert, of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirts, of which the following is a specification.

This invention relates to certain improvements in shirts; and it has for its object to furnish a brace for the bosom which will hold it in proper position upon the person, and prevent the wrinkling of the same and the adjacent portions of the front of the shirt, and which will also facilitate the ironing of the bosom by holding it in a flat position during the operation.

To this end my invention consists in providing the shirt with a curved brace, extending from beneath the arms downwardly to the center of the front of the shirt, which, when the shirt is starched and

ironed, will possess sufficient rigidity to prevent the wrinkling of the bosom and adjacent parts of the front of the shirt.

(Here follows diagram marked p. 773.)

In the drawings, figure 1 indicates a front view of my improved shirt; Fig. 2, a sectional view of the upper and lower parts and the band or brace; Figs. 3 and 4, similar section of modifications.

In carrying out the invention, the front of the shirt A is preferably formed of two parts, B C, as illustrated in Figs. 1 and 2 of the drawings, the lower edge of the upper part being cut on a curve, D, extending from that portion which sets under the armpits in a finished shirt to the center of the front of the shirt, and the upper edge of the lower part cut on a corresponding reverse curve, E, the two edges being afterward placed together and united by stitching, in such manner as to form a curved band or brace, G, of thickened material, which will extend from beneath the armpits to the center of the front of the shirt, as shown.

In uniting the curved edges of the upper and lower portions of the shirt, it is preferable to fell the edges together, by which the material is thickened or doubled at the juncture of the two parts, adding strength to the brace and increasing its capacity to hold starch, and thereby be rendered more rigid when the shirt is starched and ironed.

Instead of forming the shirt-front in two parts, as above described, the shirt-front may be cut as usual and the part B applied in proper position over the upper part of the front of the shirt and stitched thereto, the brace in this case being formed by turning under the curved edge D and sewing it to the shirt-front.

In the modification shown in Fig. 3 the lower edge, D, of the part B has folded over and stitched to it an independent band of fabric of suitable width, and the edge thus bound is stitched to the curved edge E of the lower part, C, of the shirt-front, said band forming the curved brace in the finished shirt.

In the modification shown in Fig. 4 the brace is formed of an independent band of folded fabric which is stitched on a proper curve directly upon the ordinary front of the shirt by a double row of stitches.

As thus constructed, it will be evident that by reason of the extra thickness of the curved band and the increased amount of starch that it will receive and hold, it will possess a considerable degree of rigidity, so as to support the bosom and hold it in a comfortable and proper position upon the person, and prevent the wrinkling of said bosom and the adjoining portions of the shirt-front when worn, and will also hold the bosom in a flat and convenient position while being ironed, thus facilitating the operation.

Having thus fully described my invention, what I claim is—

1. A shirt provided with a narrow curved brace extending from a point at or near the armpits of its front downward toward the center, whereby the bosom is held in position upon the person and prevented from wrinkling, substantially as specified.

I. H. MAMBERT.

Shirt.

No. 219,284. Patented Sept. 2, 1879.

No. 194. Cluett et al. Claflin et al. } p. 773.

Fig. 1.

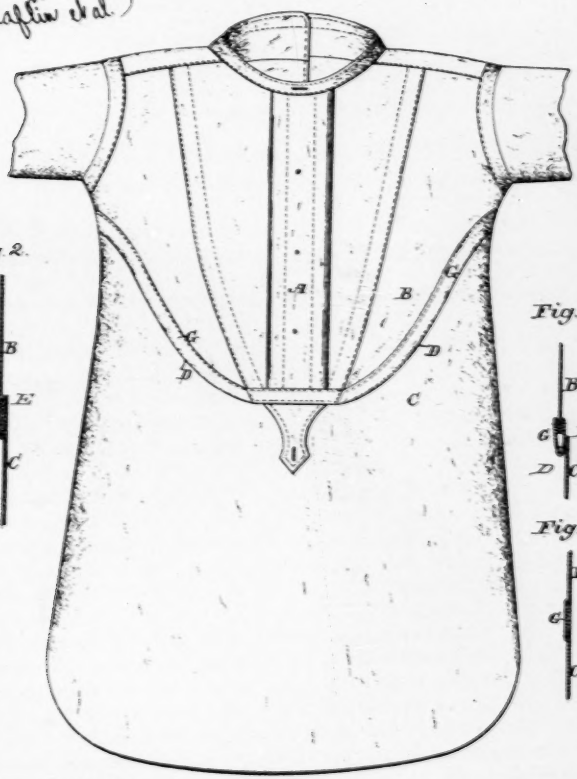


Fig. 2.

Fig. 3.

Fig. 4.

Attest:
J. Henry Kaiser.
J. A. Rutherford

Inventor:
Isaac H. Mambert.
By James L. Norris,
Atty

2. A shirt-front constructed of an upper and a lower part, with curved adjoining edges, secured together by stitching, whereby a narrow curved brace extending from or near the armpits downward across the front of the shirt is formed, substantially as and for the purposes specified.

In testimony that I claim the foregoing I have hereunto set my hand in the presence of the subscribing witnesses.

ISAAC H. MAMBERT.

Witnesses:
JAMES L. NORRIS.
JAMES A. RUTHERFORD.

776 UNITED STATES PATENT OFFICE.

WILLIAM L. HALL, of Troy, New York.

Shirt.

Specification forming part of Letters Patent No. 276,809, dated May 1, 1883; application filed February 23, 1883. (No model.)

To all whom it may concern:

Be it known that I, William Lord Hall, of the city of Troy, county of Rensselaer, and State of New York, have invented a new and useful improvement in apparel-shirts, of which the following is a specification.

My invention relates to the bosoms of apparel-shirts, and to a method of attaching the former to the latter so as to produce a bound and beaded fly-edge; and my invention consists, as will hereinafter be described, in the several process steps by which a beaded fly-edge is produced rather than to a bosom fly-edge broadly considered.

To attach the bosom to the shirt, and produce in so doing a beaded fly-edge upon the bosom by my improvement, the shirt body (or body and front re-enforce, when the latter is used) are cut out to receive the bosom and an opening made therefor, which is enough smaller than the bosom to produce, when the edge of the opening is turned over and down, one thickness of the beaded fly-edge, with the raw edges or edge of the fold thus made on the edge of the shirt-opening coincident with the outer edge of the bosom when the two parts are laid parallel. When this has been done one thickness of the bosom-fly or inner facing is cut enough larger than the other thickness of the ply and bosom to subtend the edge of the latter, the lapping edge of the facing or ply being turned down to thicken up the fly-edge, and preferably turned down over the bosom-edge, and there it may be pasted, folded, or sewed. After the before-named steps have been accomplished the outer raw edges of the shirt-opening as folded, and the edges of the facing, where folded to subtend the bosom, and the bosom are brought together and bound by a strip inclosing these outer edges, and by a seam made through both edges of the underlapping and overlapping strip, and through

the intermediately-placed bosom, facing-ply, and shirt-body on the fold-line first formed in the edge of the opening made for the bosom in the shirt front, or the latter and re-enforce, when the latter is used. Where the bosom fly-edge is flat when ironed, its edges as laundered become sharp and knife-like, and when the bosom bends on an angle the sharp points produced on its edges cut into and wear out the face of the shirt-front where coming in contact with the latter from the motions of the body. When the raw edges of the bosom are merely covered with one exterior thickness of material and laundered, the impress of these raw edges becomes manifested in the exterior finish of the fly, which makes their appearance unsightly and objectionable. To obviate these difficulties and to give a rounded edge and beaded finish to the fly-edge of the bosom is the object of my invention.

I am well aware that a fly-edge as applied to a shirt-bosom is not new when broadly considered; and I am also aware that a binding-piece has been applied to a bosom-edge with the binding on both sides and both edges, when folded, stitched to the shirt and bosom, so that the binding did not inclose or cover a fly-edge in the manner employed by me, and as shown and described herein.

(Here follows diagram marked p. 775.)

In the accompanying drawings, forming a part of this specification, there are shown two figures illustrating my invention, with the same designation of parts by letter-reference used in both illustrations.

Figure 1 shows a shirt-front containing a bosom attached according to my method, at one of the upper ends of the illustration the attachment being shown as ripped apart to better indicate the position of the parts. Fig. 2 shows a section of the parts, taken on the line X X of Fig. 1, with the relative thickness of the parts exaggerated to better illustrate them.

The several parts of the shirt are designated by letter-reference and their connection explained, as follows:

The letter B′ indicates the bosom; S′, the shirt-front, and R′ the front re-enforce of the shirt.

The letter a' designates the bosom-ply, and a^2 the inner facing of the bosom, and D the binding-piece.

The letter S^2 indicates a fold made in the shirt-front on the edge of the opening cut in the latter to receive the bosom, as indicated at O, by turning outwardly and downwardly such edge; and R^2 designates a parallel fold made in the edge of the re-enforce R′ for the same purpose.

The letter C indicates a fold made on the outer edge of the
777 inner-bosom facing, a^2, which latter is cut larger than the bosom and ply, with its subtending edge turned over and down inwardly over the bosom-edge, so as to intermediately include the edge of the ply.

The letter A indicates the beaded fly when the parts are connected, which is done in the following manner: The raw edges of the folds

(No Model.) 775

W. L. HALL

SHIRT.

No. 276,809. Patented May 1, 1883.

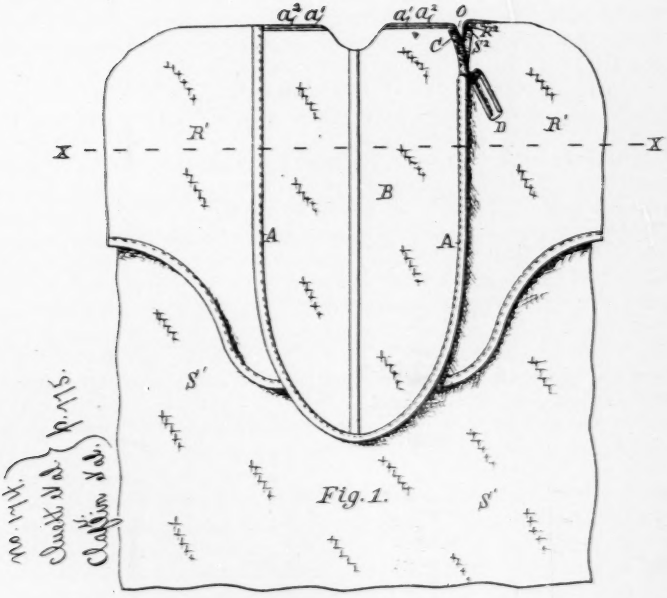


Fig. 1.

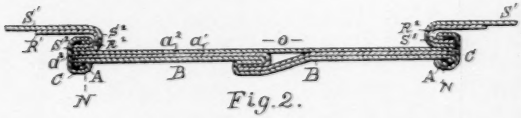


Fig. 2.

Witnesses:
Stanley N. Holden
Sumner P. Hunt

Inventor:
William Lord Hall
by W. E. Hagan
his atty

S^2 and R^2 are placed parallel with each other and the outer edge of the bosom, the latter and the ply being inclosed by the fold C on the edge of the facing a^2, and then the binding D is attached, so as to overlap and underlap the edges of the parts so placed by means of a line of stitching (indicated at N) which passes through each of the vertically-parallel and oppositely-placed edges of the strip, and the intermediately-placed bosom-edge, ply-facing, and fold of the re-enforce and shirt-body on the edge of the opening O with said line of stitching, away from the outer edges of the bound parts, and on the fold-line of the folds R^2 and S^2. When thus produced the beaded fly A on its outer edge is free from the shirt and adapted to be beaded up when laundered, and when ironed the edge of the fly produced will be rounded necessarily.

If desired, the edges of the superimposed parts may be sewed together before the binding is attached, and the latter may be made of straight or bias material. Under some conditions it may also be desirable to omit the ply, which can be done, and the re-enforce may also be omitted, provided the same fold is formed in the edge of the shirt-opening cut for the bosom, and the latter at its edge inclosed by an overlapping edge of the inner bosom-facing, without departing from my method, for the factors employed and the manner of attaching them would remain the same in either instance, and whether the overlapping edge of the inside facing, a^2, was stitched to or folded drown over and pasted to the face of the bosom on its outer edge, it would in either instance cover up the raw edges of the material in the same manner and perform the same office.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

1. In a bosom-shirt, a beaded fly-edge surrounding the bosom, made with its inner edge attached to the shirt and its rounded outer edge free, and bound with a strip that overlaps and underlaps the edge of the bosom, bosom-facing, and ply, when the latter is used, and the turned-over edge of the shirt-opening where cut out to receive the bosom, as shown and described.

2. In an apparel-shirt, a bosom-beaded fly-edge in combination, consisting of a fold formed in the edge of the opening cut in the shirt-front or shirt-front and re-enforce to receive the bosom, the edge of the bosom, a fold upon the subtending edge of the bosom-lining turned down on the bosom-edge, so as to include the raw edge of the bosom and that of the ply, when used, a binding-piece that overlaps and underlaps the edges of the bosom, bosom-lining, bosom-fly, when used, and the edge of the opening cut out to receive the bosom, and a row of stitching uniting the oppositely-laid edges of the binding-piece on the fold-line formed in the edge of the opening cut to receive the bosom, as shown and described.

Signed at the city of Troy, New York, this 12th day of February, 1883.

WILLIAM LORD HALL.

Witnesses:
STANLEY M. HOLDEN.
CHARLES S. BRINTNALL.

780 UNITED STATES PATENT OFFICE.

ISAAC P. TURNER, of Troy, New York, assignor to George W. Pine, of same place.

Shirt.

Specification forming part of Letters Patent No. 307,153, dated October 28, 1884; application filed March 20, 1884. (No model.)

To all whom it may concern:

Be it known that I, Isaac P. Turner, of the city of Troy, county of Rensselaer, State of New York, have invented a new and useful improvement in bosom-shirts, of which the following is a specification.

My invention relates to shirt bosoms and a manner of making them to better adapt them for attachment to the shirts to which they are applied when used.

My invention consists, as will be more fully detailed hereinafter, in the combination, with a bosom made with an inside lining and an outside facing, of a strip inserted and sewed to the edges of and between said facing and lining when the latter are laid wrong side out, and which strip, before being inserted and attached, has had folded in it longitudinally and centrally an entrant fold, the said entrant fold being to receive the edge of the shirt cut out to receive the bosom.

Accompanying this specification, to form a part of it, there are two plates of drawings, containing four figures illustrating my invention, with the same designation of its parts by letter-reference used in all of them.

(Here follow diagrams marked pp. 778 & 779.)

Of the accompanying illustrations, figure 1 shows a representation of the bosom facing and lining laid wrong side out to include the ply, with the previously-folded strip inserted between their laid edges, the parts thus placed being turned up and out at one of the corners, so as to show their relative position. Fig. 2 represents a section of the parts taken on the line $x' x'$ of Fig. 1; and Fig. 3 illustrates the position of the parts after having been sewed as placed in Fig. 1, and then turned so as to bring the bosom-facing exteriorly at the front, parts of the corners and bottom being turned up to show the position of the inserted strip after being attached. Fig. 4 shows a section of the parts taken on the line $x^2 x^2$ of Fig. 3.

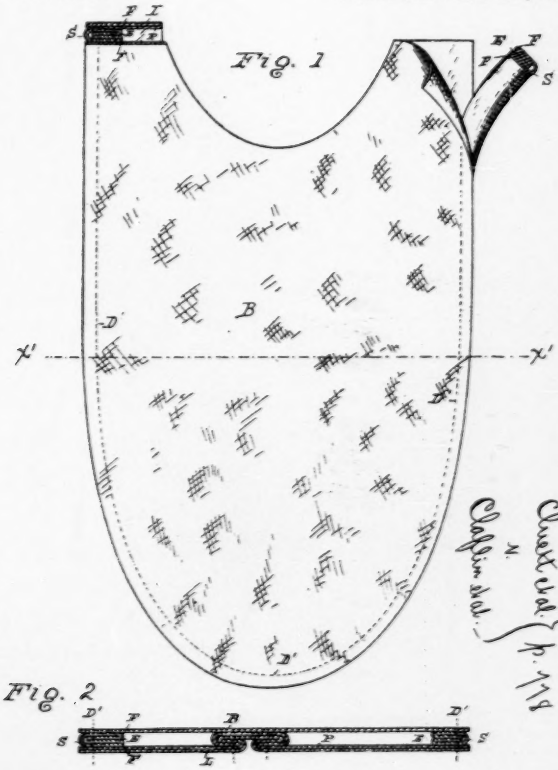
The parts of the bosom and the strip as thus folded for application to the bosom are designated by letter-reference, and the method of attachment is described as follows: The letter B designates the bosom-facing; L, the lining; P, the ply; S, the strip; E, the entrant fold formed longitudinally in the strip, and F F the fly edges of the strip at the sides of the entrant fold for receiving the edge of the

(No Model.) 2 Sheets—Sheet 1.

I. P. TURNER.

SHIRT.

No. 307,153. Patented Oct. 28, 1884.



No. 174.
Cluett et al.
v.
Claflin et al.
p. 778

Witnesses
Stanley M. Holden.
Charles S. Brintnall

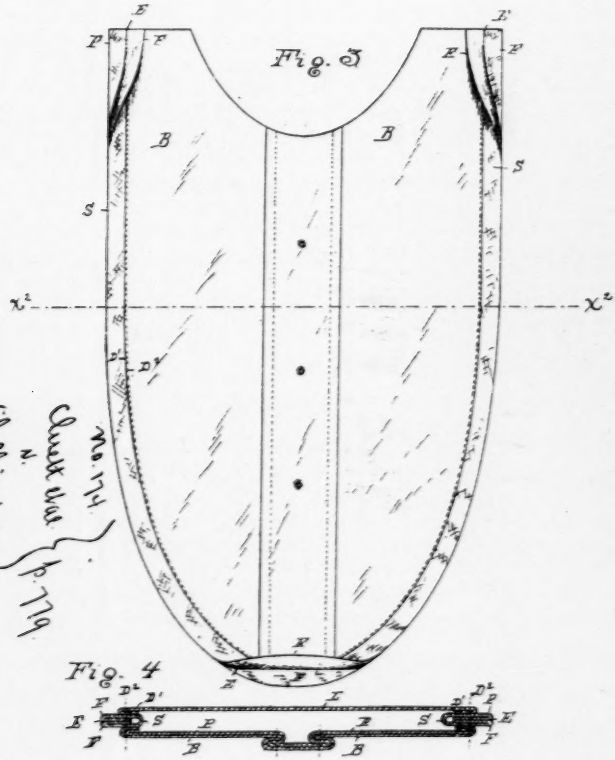
Inventor
Isaac P. Turner
by McHagan his atty

(No Model.) 2 Sheets—Sheet 2.

I. P. TURNER.

SHIRT.

No. 307,153. Patented Oct. 28, 1884.



No. 174
Quest. etal.
v.
Claflin etal.
p. 779

Witnesses

Stanley M. Holden

Charles S. Brintnall

Inventor

Isaac P. Turner

by W. E. Hagan his atty

shirt-opening cut out to receive the bosom. The bosom and lining being laid wrong side out, and so as to include intermediately the ply, the strip S, having been previously folded longitudinally to produce the entrant fold E by its turned-in edges, is then inserted between the edges of the facing and those of the fly placed intermediately, and sewed, as shown at D′, Fig. 1, so as to connect the turned-in edges of the strip, the edges of the facing, ply, and lining. After this has been done, the parts are turned so as to be in the position shown at Fig. 3, when they are again sewed at D^2, as indicated at Figs. 3 and 4. Thus made and applied, the fly edges F F of the entrant fold E subtend the edges of the bosom, so as to overlap and to underlap the entering edges of the shirt-opening cut out to receive the bosom. A bosom thus made, by means of the lapping edges of the strip and the entrant fold which they produce, can be made to fit smoothly into the opening cut out in the shirt, and, while the bosom is very securely stayed and protected, the seam which in the main does it is an interior seam that is out of sight. Another advantage results from connecting the shirt to the strip instead of to the bosom directly, in the fact that the shirt can be more easily repaired at a point where most likely to wear.

Having thus described my invention, what I desire to claim and secure by letters patent is—

1. The combination, with a shirt-bosom that is made with a facing and lining, of the strip S, made with the longitudinal entrant fold E, and sewed interiorly to the edges of the facing and lining of the bosom, and sewed exteriorly to the said facing and lining, with the fly edges of the entrant fold subtending the edge of the bosom, substantially in the manner and for the purposes set forth.

2. The combination, with a shirt-bosom that is made with a facing and lining, of a strip having made therein a longitudinal entrant fold, E, produced by the turned-in edges of said strip, and with said strip attached by being placed between the edges of the bosom facing and lining when laid wrong side out, then sewed at D′ to secure the strip, its turned-in edges, the facing, and lining together, with the parts then turned and sewed exteriorly at D^2, and the fly edges of the entrant fold subtending the edges of the bosom, as shown and described.

781

Signed at Troy, New York, this 6th day of March, 1884, in the presence of the two witnesses whose names are by them hereto written.

ISAAC P. TURNER.

Witnesses:

CHARLES S. BRINTNALL.
STANLEY M. HOLDEN.

784 UNITED STATES PATENT OFFICE.

WILLIAM LORD HALL, of Troy, New York.

Bosom-Shirt.

Specification forming part of Letters Patent No. 308,607, dated December 2, 1884; application filed December 17, 1883. (No model.)

To all whom it may concern:

Be it known that I, William Lord Hall, of the city of Troy, county of Rensselaer, and State of New York, have invented a new and useful improvement in bosom-shirts, of which the following is a specification.

My invention relates to bosom-shirts, and more particularly to a method of attaching the bosom to the shirt so as to produce at the union of shirt and bosom and on the latter a rounded-up and beaded fly-edge; and in some respects my invention relates to certain improvements upon letters patent No. 276,809, which were granted to me May 1, 1883, and which had for its object the production of the same finish on the bosom-edge, but by a different method from that shown herein, as will be subsequently described.

My invention consists, as will hereinafter be fully detailed, in the combination, with the front or front re-enforce of a shirt, of a bosom attached thereto, but not to or with the edge of an opening made therein, and a rounded-up and thickened fly-edge produced on the bosom by rolling or folding inwardly the edge of the bosom-ply when used, or by a strip of material that is folded or rolled up, with the edge of the bosom overlapping and underlapping the thickened-up part, and the parts thus placed sewed to the shirt-front and re-enforce, when both are used, on the inner edge of the thickened-up part, leaving the outer edge of the connected parts free.

Accompanying this specification, and forming a part of it, are two plates of drawings, containing ten figures illustrating my invention, with the same designation of parts by letter-reference used in all of them.

(Here follow diagrams marked pp. 782 & 783.)

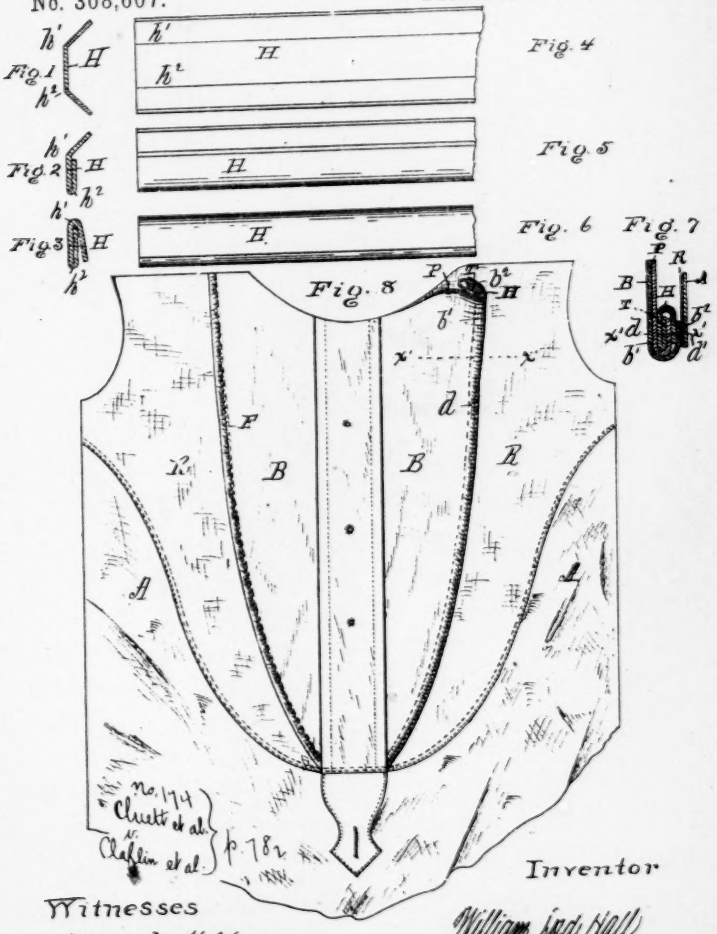
Figures 1, 2, and 3 show sections of the folds made in a strip when the latter is used to thicken up the bosom-edge. Figs. 4, 5, and 6 show views of the several folds made and as successively laid in the strip when used. Fig. 7 illustrates in a section the rounded fly-edge produced on the bosom-edge by the folded and included strip, and shows also the attachment of the bosom on the inner edge of said fly to the shirt and re-enforce. Fig. 8 illustrates the bosom as attached to the shirt-front and re-enforce, with the end of the rounded edge at the top and on one side of the bosom cut away and turned out to show the position of the parts when the thickened-up and rounded-out part is produced by an added strip. Fig. 9 shows the

(No Model.) 2 Sheets—Sheet 1.

W. L. HALL.

BOSOM SHIRT.

No. 308,607. Patented Dec. 2, 1884.



Witnesses

Stanley M. Holden

Charles S. Brintnall

Inventor

William Lord Hall

by W. E. Hagan his atty

(No Model.) 2 Sheets—Sheet 2.

W. L. HALL.

BOSOM SHIRT.

No. 308,607. Patented Dec. 2, 1884.

no. 174.
Cluett et al.
v.
Claflin et al.
p. 783

Fig. 10

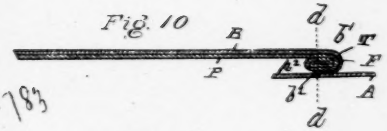
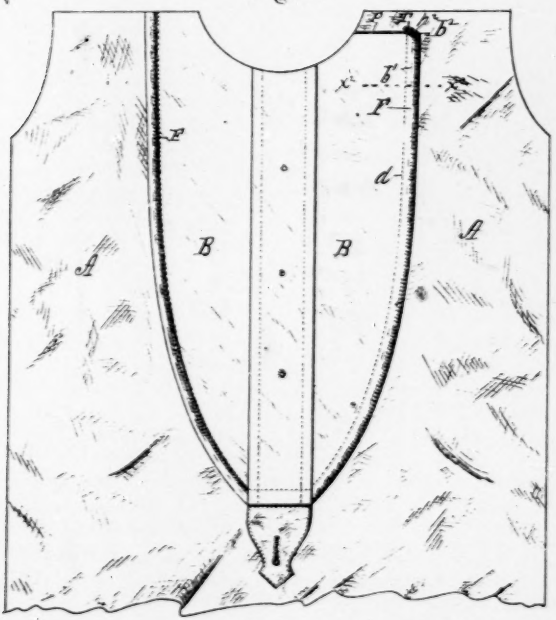


Fig. 9



Witnesses
Stanley M. Holden
Charles S. Brintnall

Inventor
William Lord Hall
by W. D. Hagan his atty

parts in the same position as shown at Fig. 8, with the exception that the thickened-up and rounded-edge is produced by turning or folding in the edge of the bosom inner facing or ply. Fig. 10 illustrates a section taken on the line x^2 x^2 of Fig. 9.

All the parts illustrated in section are shown as exaggerated in thickness relatively, to better indicate their position.

The parts of the bosom and shirt thus illustrated are designated by letter-reference and their function explained as follows:

The letter A indicates the shirt, B the bosom, and F a thickened-up fly-edge produced on the latter by several folds or turned-in thicknesses of material, which the edge of the bosom overlaps and underlaps, and which is, as designated at *d*, sewed to the shirt-front or the latter and re-enforce R on the inner edge of the thickened-up and folded-in material. Thus the bosom has a fly-edge that is attached to the shirt-front without connecting with the edge of an opening formed therein, with the fly-edge and its included folds of material bound by the bosom itself, and in this respect differs from the older patented method of producing such a finish to the bosom-edge hereinbefore alluded to.

The letter H indicates a strip of fabric made to have the folds h' h^2 as shown at Figs. 1, 2, 3, 4, 5, and 6, and which strip is illustrated as applied at Figs. 7 and 8 to produce a thickened-up interior filling for the rounded fly-edge of the bosom, and which, when inclosed and included by the overlapping and underlapping edge of the bosom indicated at b' b^2, and sewed to the face of the shirt, as indicated at *d*, produces the rounded fly-edge F.

The letter P designates the inner facing or ply of the bosom, which, when turned on its edge for this use, is cut wider and longer than the bosom, and which ply is turned in on its edges, as indicated at p^2, to produce the inner thickening-up part or filling T, and which, when inclosed by the overlapping and underlapping edge of the bosom designated at b' b^2, and sewed to the face of the shirt, as indicated at *d*, produces the rounded fly-edge F. Thus the interior part, T, performs the same function, whether made by the strip or the edge of the bosom-ply, and in either instance it is inclosed with and bound by the edge of the bosom and attached to the shirt-front in the same manner.

When shirts as ordinarily made are worn, the bosom being thicker and stiffer than the shirt-front with which the sides of the bosom connect, as the latter bends with the motion of the body, its sharp corners at the bends and on the bosom-edge cut into the adjacent shirt-front where they come in contact, to rapidly wear it out. These objections I overcome by producing upon the bosom-edge the rounded and beaded fly-edge F.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

In a bosom-shirt, the combination of the filling or thickening T, the side and bottom edges of the bosom B, cut and folded to overlap and underlap said filling or thickening, and the stitching *d*, applied to connect the overlapping and underlapping edge of the bosom and

the filling or thickening inclosed by the latter to the shirt, as shown and described.

Signed at Cincinnati, Ohio, on the 23d day of November, 1883, in the presence of the two witnesses whose names were by them hereto written.

WILLIAM LORD HALL.

Witnesses:
WM. STRUNK.
CHAS. M. HEPBURN.

789 UNITED STATES PATENT OFFICE.

GEORGE W. PINE, of Troy, New York.

Bosom-Shirt.

Specification forming part of Letters Patent No. 313,520, dated March 10, 1885; application filed May 27, 1884. (Model.)

To all whom it may concern:

Be it known that I, George W. Pine, of the city of Troy, county of Rensselaer, State of New York, have invented a new and useful improvement in bosom-shirts, of which the following is a specification.

My invention relates to bosom-shirts and the attachment of the bosom to the shirt by means of a bias-cut border-piece that is folded centrally and longitudinally and laid with its cut edges parallel to the edges of the bosom, sewed thereto, turned over and down on the line of union, with the outer edge of the folded border-piece attached to the shirt at the front, and a like border-piece attached to the bosom-lining or body side facing in the same manner as that attached to the bosom proper, and said lining border-piece on its folded edge sewed to the inner surface of the shirt opposite to the bosom at the front and to and through the exteriorly-connected edge of the border-piece of the bosom proper, the object and purpose of my invention being to unite a rounded bosom in a shirt-front without gathers in the piece by which it is connected to the shirt, or gathers in the latter.

Accompanying this specification, to form a part of it, there are three plates of drawings containing five figures illustrating my invention, with the same designation of its parts by letter-reference used in all of them.

(Here follow diagrams marked pp. 786, 787, & 788.)

Of these illustrations, figure 1 shows the position of the parts after a bias-cut border-strip was folded longitudinally and centrally, laid with its cut edges coincident to those of the bosom-lining and sewed thereto, then turned over and down on the line of its union, with the fold edge of said border sewed to the inside surface of the shirt-front, and inside the line of which union of border and shirt-body the latter was subsequently cut out to produce the bosom-open-

786

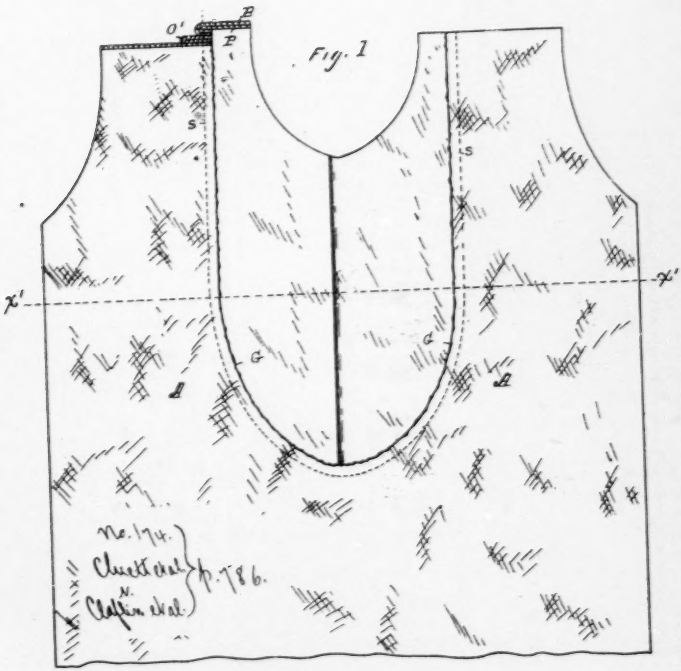
3 Sheets—Sheet 1.

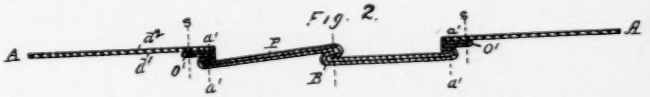
(Model.)

G. W. PINE.

BOSOM SHIRT.

No. 313,520. Patented Mar. 10, 1885.





WITNESSES:

Stanley M. Holden.

Charles S. Brintnall

INVENTOR

George W. Pine

BY

W. E. Fagan his

ATTORNEY

787

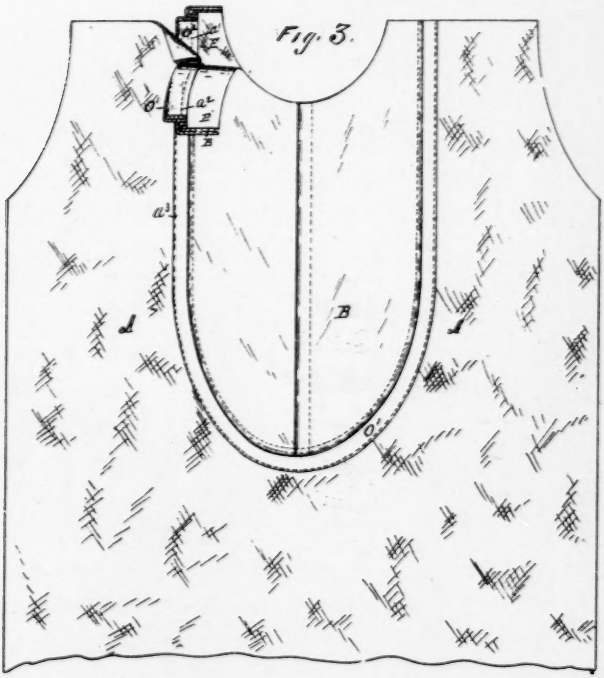
(Model.) 3 Sheets—Sheet 2.

G. W. PINE.

BOSOM SHIRT.

No. 313,520. Patented Mar. 10, 1885.

Fig. 3.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(Model.) 3 Sheets—Sheet 3.

G. W. PINE.

BOSOM SHIRT.

No. 313,520. Patented Mar. 10, 1885.

Fig. 4

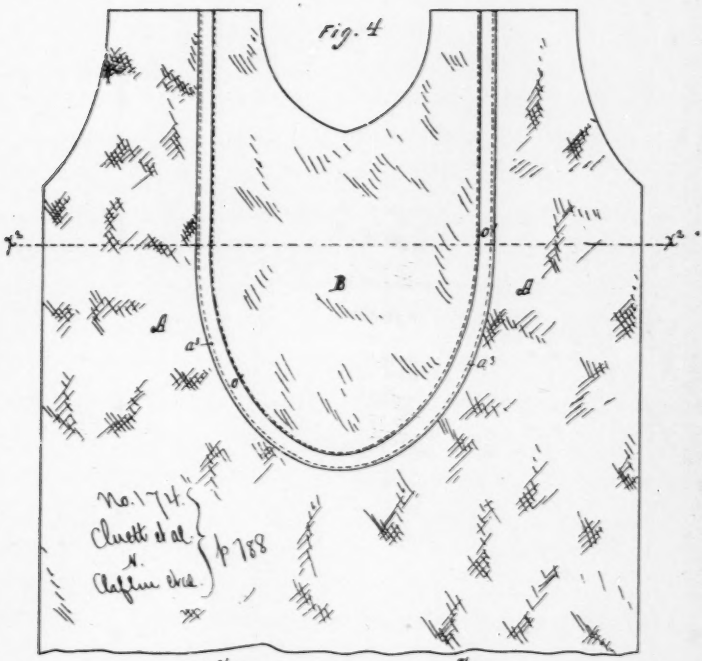
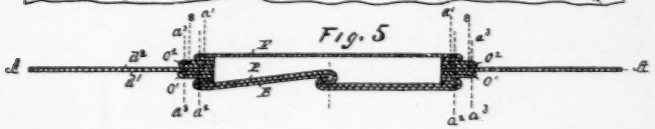


Fig. 5



WITNESSES:

Stanley M. Holden

Charles S. Brimhall

INVENTOR

George W. Pine

BY

W. & Hagan his

ATTORNEY

ing. Fig. 2 shows a section taken on the line x' x' of Fig. 1. Fig. 3 shows the previously-connected bosom, bosom-ply, and border-piece as sewed to the edge of the bosom-opening and to and through the border-piece of the lining on the inner body side of the shirt, the parts at the neck-opening and on one side thereof being shown as detached and turned over and down to better indicate their relative position. Fig. 4 shows a shirt-front with the attachment of the bosom completed. Fig. 5 is a section taken on the line x^2 x^2 of Fig. 4.

All the sections show the thicknesses of the parts as exaggerated, to better illustrate them.

The several parts of the attachment constituting my invention are designated by letter-reference, and the process steps by which the parts are connected are described as follows:

The letter A indicates the shirt-front, which may be made with or without a re-enforce. When used with the latter, it and the shirt are together connected to the other parts, as the shirt-front would be if used alone.

The letter B designates the bosom; P, the bosom-ply; F, the body side facing or lining of the bosom; O′, the border of the bosom proper, and O^2 the border of the lining F.

The letter d' indicates the outer surface of the shirt-front, and d^2 its body side surface.

The parts thus designated are attached as follows: Both the border-pieces O′ and O^2 are cut on a bias line of the fabric, and they are each folded centrally and longitudinally. The border-piece O^2 is laid with its cut edges parallel with that of the bosom-lining, sewed as thus placed, turned over and down, so as to bring its central fold to the outer edge, the stitching connecting the border and lining being designated at a'. The border-piece O′ is attached at a^2 to the edges of the bosom proper and bosom-ply in the same manner as the border O^2 is attached to the bosom-lining. After the borders have thus separately been attached the bosom-lining and connected border on the outer folded edge of the latter, as indicated at s, are attached to the body side of the shirt-front opposite to where the bosom comes at the front, and when this union has been made the shirt-body, where inside of this union with the said border, may be cut out to form the bosom-opening G, with the parts appearing as at Fig. 1. After the bosom-opening has been thus cut out, then the outer edge of the border-piece on the bosom proper is sewed at a^3 to and through the exterior of the shirt-front at the edge of the bosom-opening (when said opening is made) or to and through the outer edge of the border-piece on the bosom-lining previously connected to the body side of the shirt-front, with the parts appearing as illustrated at Figs. 3, 4, and 5.

While I have shown and described the bosom-lining, by
790 means of its border-piece, as attached to the inner surface of the shirt-front before the bosom-opening is cut out, if desired, the bosom, by means of its border-piece, may be attached to the shirt before the opening is cut out, and the lining subsequently attached; or, if desired, the shirt-front, where included by the bosom proper and lining, may remain intact to form a thickness of the ply. In

either instance the combined attachment of the bosom proper and bosom-lining by means of a bias cut and folded border-piece would be the same.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

1. In combination with the shirt and the attached bosom thereof, the folded border-strip O^2, attached to the inner side of the shirt, and the folded border-strip O′, attached to the outer side of the shirt and to the inner side of the bosom, substantially as described, and for the purpose set forth.

2. In combination with the shirt, the shirt-bosom, and the inside lining, F, the folded border-strip O^2, interposed and secured between the lining F and the inner side of the shirt, and the border-strip O′, secured to the outer face of the shirt and to the inner side of the bosom, substantially as described, and for the purpose set forth.

Signed at Troy, New York, this 8th day of May, 1884, in the presence of the two witnesses whose names were by them hereto written.

GEORGE W. PINE.

Witnesses:
GEO. S. HOLLOWAY.
CHARLES S. BRINTNALL.

792 UNITED STATES PATENT OFFICE.

MAX HERMANN, of Troy, New York, assignor to Tim, Wallerstein & Co., of same place.

Shirt.

Specification forming part of Letters Patent No. 319,487, dated June 9, 1885; application filed March 20, 1885. (No model.)

To all whom it may concern:

Be it known that I, Max Hermann, a citizen of the United States, residing in the city of Troy, in the county of Rensselaer and State of New York, have invented a new and useful improvement in shirts, of which the following is a specification, reference being had to the accompanying drawings.

My invention relates to an improvement in shirts, in which the bosom has a loose or fly edge with a finishing-strip that is distinct from each of the layers of the bosom and of the body of the shirt-front, and laps in front and in rear of and incloses the outer edge parts of the layers of the bosom.

The objects of my improvement are to produce such a shirt with the bosom neatly and durably finished and attached to the body of the shirt-front at a cheap rate, to avoid having any objectionable folded edge or ledge in and along the rear surface of the fly-edge of the bosom, and to have the rear surface of such fly-edge part smooth and uniform throughout, so as to fit flatly over and upon the contiguous border portion of the surface of the body of the shirt-front,

(No Model.)

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M. HERMANN.

SHIRT.

No. 319,487. Patented June 9, 1885.

FIG. 1.

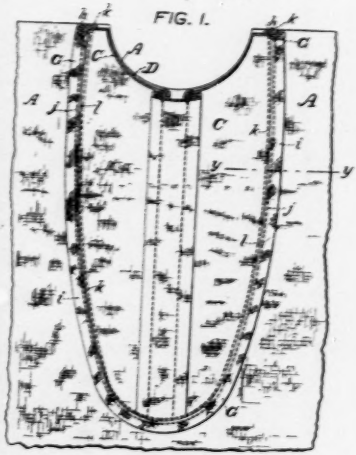


FIG. 2.

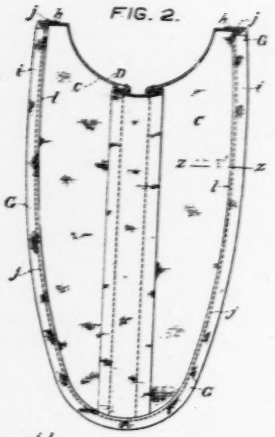


FIG. 3.

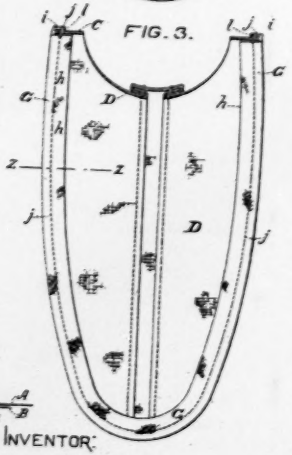


FIG. 5.

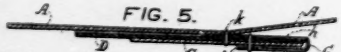


FIG. 9.

FIG. 4.

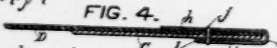


FIG. 10.

FIG. 6.

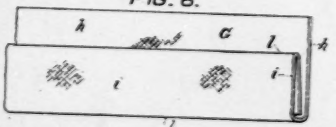
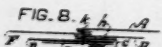


FIG. 7.

FIG. 8.



WITNESSES:

Austin F. Park

James T. Goodfellow

INVENTOR:

Max Hermann

and wholly formed by the inwardly-extending rear lap of the strip by which the edges of the layers of the bosom are inclosed.

In the accompanying drawings—

(Here follows diagram marked p. 791.)

Figure 1 is a front view of a portion of the front of a shirt that embraces one form of my invention. Fig. 2 is a front view, and Fig. 3 a rear view, of the bosom of the same shirt before being attached to the body of the shirt-front. Fig. 4 is a section of a part of the same bosom at the line *z z* in Figs. 2 and 3. Fig. 5 is a section at the line *y y* in Fig. 1 of a part of the same bosom secured to the body of the shirt-front. Fig. 6 represents a part of a separate folded strip by which the edges of the layers of the bosom are inclosed. Figs. 7, 8, 9, and 10 indicate sections of the edge part of bosoms having the edge parts of their layers inclosed by a separate folded strip and secured according to my invention to variously-constituted bodies of shirt-fronts.

Similar parts are marked by like letters in the different figures, and the parts are shown disproportioned to better illustrate the construction.

A is a layer of fabric, which in Figs. 1, 5, and 9 constitutes the body of the shirt-front, and in Figs. 1 and 5 extends across and covers the back of the bosom. The rear layer, A, of the shirt-front in Figs. 7, 8, and 10 is re-enforced by a front layer, B, which is secured with the layer A to the bosom. In Fig. 7 only the layer A is extended across the back of the bosom, but the layer B may be likewise extended.

The bosom is to be made in any desired shape, and with any proper number of layers or thicknesses of woven fabric, and can be either closed, as shown in Figs. 1, 2, and 3, or in two lateral halves or parts with a lengthwise slit between to constitute an open-front bosom in the well-known manner. The bosom is shown with a front layer, C, and a rear layer, D, and in Fig. 7 with an intermediate layer, E. In Figs. 8 and 9 a lining, F, covers the back of the bosom.

G is a separate strip, which is folded substantially as shown, and laps around, covers, and encloses the outer-edge parts of the layers of the bosom proper, and has its rear lap, *h*, extended farther inward on the back side of the bosom than its forward lap, *i*, extends inward on the front side. The strip G is first progressively folded and secured to the bosom-layers alone by a row or rows of stitches, *j*, that extend through all the layers of the bosom and through both the rear lap, *h*, and the folded front lap, *i*, of the strip.

The bosom having the edges of its layers thus covered and inclosed by the strip G is secured to the body of the shirt-front by an inner row or rows of stitches, *k*, which do not extend through the front lap, *i*, of the strip G, but do extend through the layers of the bosom and body of the shirt-front, and through the rear lap, *h*, of the strip where it extends inward farther than or beyond the inner edge, *l*, of the front lap.

By this improvement the bosom is left with a loose or freely-movable fly-edge which is somewhat wider than the front lap, *i*, of the binding-strip, and has its rear surface flat and
793 formed wholly by the inwardly-extending rear lap, *h*, of that strip, without any folded edge or ledge in that surface, so that it may fit closely against and upon the contiguous border part of the front surface of the body of the shirt-front.

Some shirts have been heretofore made with the edges of the bosom-layers bound or inclosed by a separate folded strip which lapped or extended inward equal distances on the front and rear sides of the bosom. In some such shirts the bound bosom was secured to the body of the shirt-front by a row of stitches through and along the outer folded edge part of the binding-strip, so that the bosom was left without any fly-edge. In some other shirts having a bound bosom with a fly-edge the rear surface of the fly-edge did not consist wholly of the rear lap of the edge-binding strip, and had in and along its inner part an objectionable ledge formed by the folded inner edge of the rear lap of the bosom-binding strip. Such shirts do not have the strip that covers the edges of the bosom-layers lap or extend farther inward on the rear side of the bosom than on the front side thereof, and do not have the bound bosom attached to the body of the shirt-front by a row of stitches extending through the layers of the bosom and body of the shirt-front, and the rear lap only of the strip covering the edges of the bosom-layers, and consequently do not embody the principal distinguishing feature of my invention.

I claim as my invention—

A shirt having a bosom with a fly-edge and the edges of the bosom-layers inclosed by a separate folded strip lapping farther inward on the rear side of the bosom than on its front side and attached to the bosom by a row of stitches extending through the bosom-layers and both the front and rear laps of said folded strip, and the bosom attached to the body of the shirt-front by an inner row of stitches extending through the layers of the bosom and body of the shirt-front, and through the rear lap only of the said folded edge-strip, substantially as set forth.

In testimony whereof I hereunto set my hand, in the presence of two subscribing witnesses, this 17th day of March, 1885.

MAX HERMANN.

Witnesses:

AUSTIN F. PARK.
JAMES T. GOODFELLOW.

794

(No Model.)

M. HERMANN.

METHOD OF ATTACHING BOSOMS TO SHIRTS.

No. 322,717. Patented July 21, 1885.

Fig 1

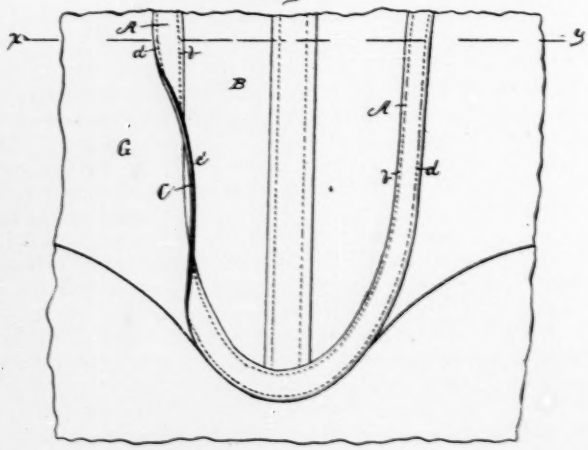


Fig. 2

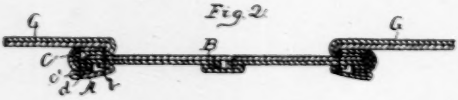


Fig. 3

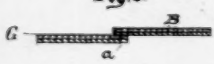
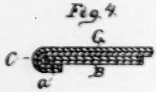


Fig. 4



No. 174.
Cluett et al.
Chaplin et al.
} p. 794

WITNESSES:
A. Ruppert.
H. A. Daniels

INVENTOR
Max Hermann
BY Per
Thomas P. Simpson
ATTORNEY

795 UNITED STATES PATENT OFFICE.

MAX HERMANN, of Troy, New York, assignor to Tim, Wallerstein & Co., of same place.

Method of Attaching Bosoms to Shirts.

Specification forming part of Letters Patent No. 322,717, dated July 21, 1885; application filed March 20, 1885. (No model.)

To all whom it may concern:

Be it known that I, Max Hermann, a resident of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in the method of attaching bosoms to shirts; and I do hereby declare that the following is a full, clear, and exact description of the invention, that will enable others skilled in the art to which it appertains to make and use the same, reference being had to the accompanying drawings, and to the letters of reference marked thereon, which form a part of this specification.

Similar letters refer to similar parts in the several figures therein.

My invention relates to improvements in the method of attaching bosoms to shirts.

The object of my invention is to save labor and at the same time produce greater uniformity in the appearance of bosom-shirts.

The invention will first be described in connection with the drawings, and then pointed out in the claim.

(Here follows diagram marked p. 794.)

Figure 1 of the drawings is a plan view showing a portion of a shirt front with a bosom attached by my approved method. Fig. 2 is a cross-section taken at the broken line *x y* in Fig. 1. Fig. 3 is a cross-section showing the first step in the process, which consists in stitching the edge of the shirt body to the edge of the bosom. Fig. 4 is a cross-section showing the shirt-body turned over upon the back of the bosom, ready to receive the folded strip.

G is the shirt-body, having a portion of the front cut away to form an opening similar in form to the bosom, but a little smaller, so that when the bosom is inserted in the opening the edges of the shirt will overlap the edges of the bosom, as shown in Fig. 3. The edges of the shirt-body are laid upon the face of the bosom and secured thereto all around the overlapping sides by the row of stitching *a*. The shirt-body is then folded over upon the back of the bosom to the position shown in Fig. 4, forming the fold C, in which position the parts are ready to receive the folded strip *c'*. The folded strip is then stitched over the seam by a sewing-machine guided by an attachment or gage, which secures uniformity of folds in the strip and exactness in its location, to neatly cover and conceal the edges of the shirt-body and the row of stitching *a*, thereby producing a

neater appearance and saving the time heretofore required to fold and adjust the strip.

By this method the raw and folded edges of the parts form guides for the sewing-machine attachment, whereby the seams and folds are rendered uniform in location and appearance, and every part is firmly secured.

By the methods heretofore employed the location and form of the seams and strip depended upon the skill of the operator, and were not uniform, portions of the edges being left wholly unsecured.

What I claim as new, and desire to secure by letters patent, is—

The described method of attaching a bosom to a shirt, which consists, first, in stitching the edge of the shirt-body opening to the face side of the bosom edge; secondly, folding the shirt-body over upon the back of the bosom and securing the same to the bosom and to a folded strip placed upon the face side of the bosom, and overlapping both the bosom edge and the edge of the shirt-body opening by a double line of through-and-through stitches, the said stitches passing through all the plies and the folded edges of the said strip on opposite sides of the first line of stitches; and, thirdly, turning the shirt-body back from the opening, substantially as described.

In testimony whereof I have hereunto set my hand this 7th day of March, 1885.

MAX HERMANN.

Witnesses:

CHAS. L. ALDEN.
HENRY J. SPECK.

797 UNITED STATES PATENT OFFICE.

MAX HERMANN, of Troy, New York.

Method of Attaching Bosoms to Shirts.

Specification forming part of Letters Patent No. 322,718, dated July 21, 1885; application filed November 16, 1883; renewed March 20, 1885. (No model.)

To all whom it may concern:

Be it known that I, Max Hermann, a resident of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirts; and I do hereby declare that the following is a full, clear, and exact description of the invention, that will enable others skilled in the art to which it appertains to make and use the same, reference being had to the accompanying drawings, and to the letters of reference marked thereon, which form a part of this specification.

Similar letters refer to similar parts in the several figures therein.

My invention relates to shirt-bosoms and the method of attaching the same to shirts; and it consists in concealing the raw contiguous

(No Model.) 796

M. HERMANN.

METHOD OF ATTACHING BOSOMS TO SHIRTS.

No. 322,718. Patented July 21, 1885.

Fig. 1

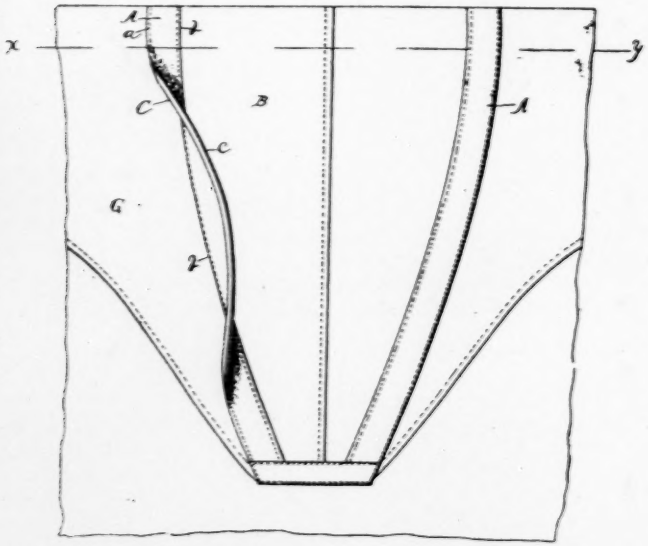


Fig. 2

Fig. 3.

Fig. 4.

No. 474.
Cluett et al.
v
Claflin et al.
p. 796

Witnesses:

John F. Booth
Wm. H. Hollister Jr.

Inventor.

Max Hermann
by Geo A Mosher
Atty.

edges of shirt and bosom by a separate strip of fabric fastened thereon by two rows of stitching, as hereinafter more fully described.

(Here follows diagram marked p. 796.)

Figure 1 represents a plan view of a portion of a shirt-front with the bosom attached by my improved method, and having one edge of the strip and shirt-fold C raised from the shirt to expose to view the side of the fold contiguous to the shirt. Fig. 2 is a cross-section taken at the broken line *x y* in Fig. 1. Fig. 3 is a cross-section showing the separate strip fastened to the shirt along its edge, formed by the bosom-opening, by a sigle row of stitching, *a*. Fig. 4 is a similar sectional view, showing the shirt folded upon itself to form the fold C and opening O, in which the raw edge of the bosom is inserted.

An opening, D, Fig. 2, is first cut in the shirt-front, similar in form to the bosom, but smaller than the bosom, to permit the edges of the shirt, formed by the bosom-opening, to be folded, as hereinafter described. The strip A, with its edges folded in as shown, is then stitched along one edge by the row of stitching *a* to the edge of the shirt G, formed by the bosom-opening, as shown in Fig. 3. The shirt is then folded upon itself to the position shown in Fig. 4, forming the double fold C *c* and the opening O therein between the shirt and the unstitched edge of the strip. The raw edge of the bosom B is then inserted in opening O to the position shown in Fig. 2, in which position it is secured by the row of stitching *b*. This row of stitching *b* thus passes through and binds together the loose edge of the strip, the raw edge of the bosom, and one thickness of the shirt-front G. After this last row of stitching is inserted the shirt is again folded upon itself from the position shown in Fig. 4 to that shown in Fig. 2, from which it appears that the double fold C *c* is free on its folded edge from the shirt, and forms a double-fold fly-edge, which can be raised up therefrom, as shown in part in Fig. 1, to permit of laundering the shirt-front thereunder, and that said double-fold fly-edge forms a cover within and by which the edges of the bosom are concealed and secured, the loose edges of the shirt being themselves concealed by the strip.

The edges of the shirt are not adapted to be extended to perform the duties of the strip to the exclusion of the latter, for the reason that the shirt itself is made of an inferior fabric compared with the bosom, and a much better finish and appearance can be given the shirt by employing the strip, which may be of any desired material adapted to strengthen and ornament the shirt-front. I am thus able by my improved method to securely attach bosoms to shirts, and at the same time give an even, finished appearance to the seam by which they are joined.

I am aware that the seams by which bosoms are attached to shirts have been bound with a separate strip of fabric to conceal and ornament the same. The strip inclosed the edges of both shirt and bosom, which were laid one upon the other, and was bound thereon by a single row of stitching, which latter passed through both edges

of the strip or binding, and the edges of both shirt and bosom, in one case to make a beaded fly-edge, and in another to be stitched down to the body of the shirt by a second row of stitching to form a secured edge; but I do not claim or make use of either form of construction.

My strip A is stitched to only one side of the edges of either shirt or bosom, and does not subtend or pass around either of said edges to bind the same within its folds.

By employing my method an ordinarily skilled workman can easily and successfully attach bosoms to shirts by seams which are durable and ornamental in appearance, broad, smooth, and comfortable to the wearer.

798 I have shown a plurality of plies or thicknesses, and there may be any desired number of plies in either shirt or bosom.

What I claim as new, and desire to secure by letters patent, is—

The described method of attaching bosoms to shirts, which consists, first, in securing one edge of an edge-folded strip to the edge of shirt-opening by a row of stitching; secondly, folding the shirt upon itself, so as to form a double fold and leave a vacant space between the shirt and unstitched edge of strip; thirdly, inserting the raw edge of bosom in said vacant space and securing it by a row of stitching which passes through and binds together the loose edge of strip, the raw edge of bosom, and one thickness of the shirt-front; and, fourthly, folding the shirt upon itself until the double fold is free from shirt on its folded edge, and forms a double-fold fly-edge, substantially as described.

In testimony whereof I have hereunto set my hand this 13th day of November, 1883.

MAX HERMANN.

Witnesses:
GEO. A. MOSHER.
W. H. HOLLISTER, JR.

.801 UNITED STATES PATENT OFFICE.

WILLIAM LORD HALL, of Troy, New York.

Bosom-Shirt.

Specification forming part of Letters Patent No. 331,786, dated December 8, 1885; application filed February 2, 1885; Serial No. 154,652. (No model.)

To all whom it may concern:

Be it known that I, William Lord Hall, of the city of Troy, county of Rensselaer, State of New York, have invented a new and useful improvement in bosom-shirts, of which the following is a specification.

My invention relates to bosom-shirts; and it has for its object the production of a cheap and simple means for attaching the bosom to the shirt.

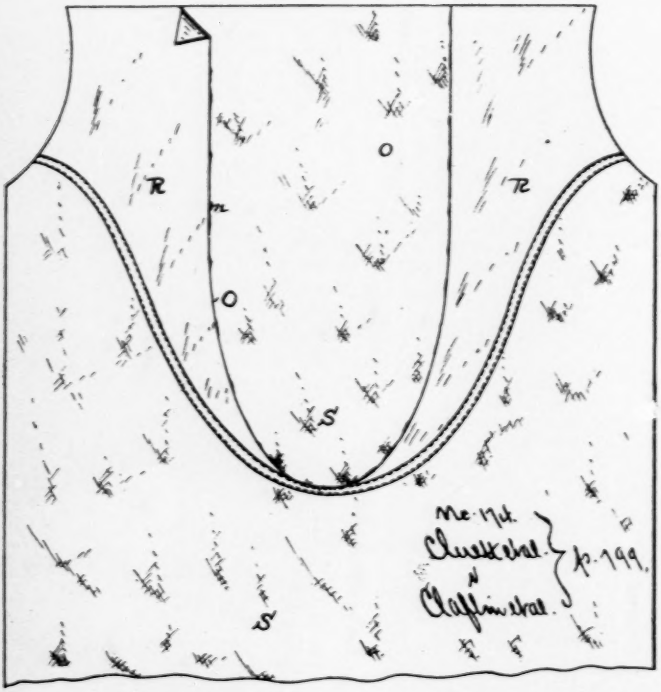
(No Model.) 2 Sheets—Sheet 1.

W. L. HALL.

BOSOM SHIRT.

No. 331,786. Patented Dec. 8, 1885.

Fig. 1



WITNESSES:

Stanley M. Holden.

Charles S. Brintnall

William Lord Hall INVENTOR

BY

W. E. Hagan his ATTORNEY

300

(No Model.) 2 Sheets—Sheet 2.

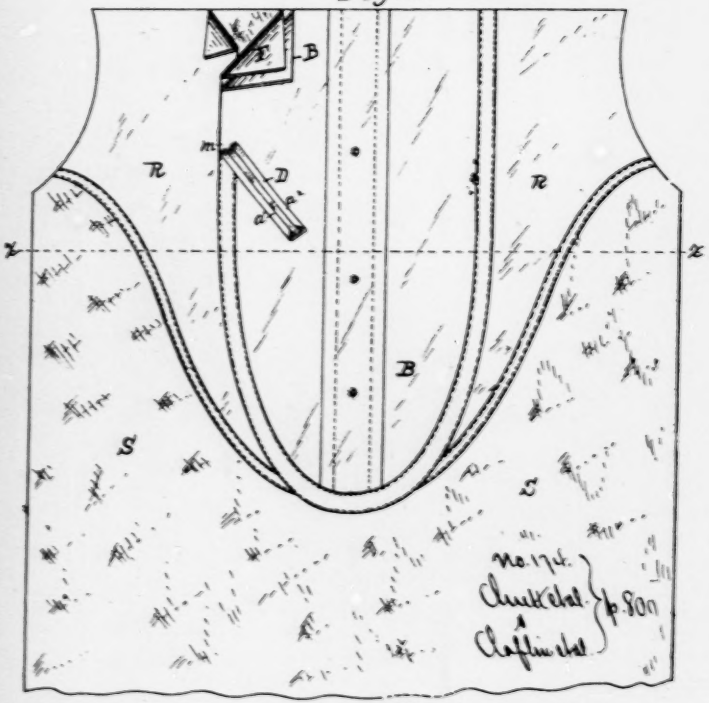
W. L. HALL.

BOSOM SHIRT.

No. 331,786. Patented Dec. 8, 1885.

Fig. 3

Fig. 2



WITNESSES:

Stanley M. Holden

Charles S. Brintnall

William Lord Hall INVENTOR

BY

W. E. Hagan Jr. ATTORNEY

My invention consists in the combination, with a shirt-front that is made with a front re-enforce that has a bosom-opening cut out therefrom, of a bosom having an inner facing with the edge of the opening cut in the re-enforce arranged to underlap the edges of the bosom and facing where adjacent, and a bias strip having turned-in side edges, said strip being laid exteriorly and then sewed through the turned-in edge on one of its sides to and through the bosom, re-enforce, and shirt-front proper, and on its outer turned-in edge to and through the shirt-front proper and re-enforce, said strip covering the lapping edges of the bosom and re-enforce.

Accompanying this specification to form a part of it there are two plates of drawings containing three figures illustrating my invention, with the same designation of its parts by letter reference used in all of them.

(Here follow diagrams marked pp. 799 & 800.)

Of these illustrations, figure 1 is a plan view of the re-enforce as cut out for the bosom and laid over the shirt-front proper, one of the upper inner corners of the re-enforce being shown as turned down. Fig. 2 illustrates the parts after the attachment of bosom and shirt has been made, they being shown as ripped apart on the line of their union, turned over and down at the top and one side of the attachment. Fig. 3 shows a section taken on the line $x\ x$ of Fig. 2, with the thickness of the parts exaggerated.

The parts of the shirt and those making the attachment of bosom and shirt are designated by letter-reference, and the process steps by which the attachment is made are described as follows: The letter S designates the shirt-body proper or shirt-front; R, the re-enforce; B, the bosom; F, the bosom-facing; D, a bias-cut strip, and O an opening cut in the re-enforce. The parts are attached by laying the re-enforce R over the shirt-front, then superimposing the bosom-facing and bosom, so that the edges of the opening cut in the re-enforce will underlap the coincidently-laid edges of the bosom and facing. To secure the parts thus laid before being sewed, they may be pasted, if desired. With the parts laid as thus stated, the bias-cut strip D is placed over the edges of the bosom and sewed through its turned-in edge a' to and through the bosom, bosom-facing, and underlapping edge of the opening cut in the re-enforce, as indicated at m, and then the strip D is sewed through its turned-in side edge, a^2, to and through the re-enforce R and shirt-front proper, as indicated at m, the strip covering the edges of the bosom, and being, as before described, on one of its turned-in edges sewed to and through the latter, the bosom proper, bosom-facing, and underlapping edge of the re-enforce opening, and upon its other side edge through its turned-in edge a' to and through the re-enforce and shirt-body proper. The attachment thus illustrated and described is easily made, and it thoroughly secures the parts.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

In an attachment for connecting a bosom to a shirt, the combina-

tion of the re-enforce R, having an opening, O, with the edges of the bosom and bosom-facing both superimposed to overlap the edge of the re-enforce opening O, and a bias-cut strip, D, having turned-in side edges, a' a^2, which strip is sewed through one of its turned-in side edges to and through the bosom, bosom-lining, and underlapping re-enforce, and upon its other side edge through the latter, and to and through the re-enforce and shirt-body, the said strip as attached covering the overlapping edges of bosom and facing, as shown and described.

Signed at Troy, New York, this 22d day of October, 1884, in the presence of the two witnesses whose names are hereto written.

WILLIAM LORD HALL.

Witnesses:
CHARLES S. BRINTNALL.
C. H. SHEPARD.

803 UNITED STATES PATENT OFFICE.

MAX HERMANN, of Troy, New York, assignor to Tim, Wallerstein & Co., of same place.

Method of Securing a Bosom to a Shirt-Body.

Specification forming part of Letters Patent No. 332,799, dated December 22, 1885; application filed March 31, 1885. Serial No. 160,734. (No model.)

To all whom it may concern:

Be it known that I, Max Hermann, a citizen of the United States, residing in the city of Troy, in the county of Rensselaer and State of New York, have invented a new and useful improvement in shirts, of which the following is a specification, reference being had to the accompanying drawings.

My invention relates to an improvement in shirts, in which the bosom has a loose border or edge fly that has the whole of its rear surface formed by a rear layer of the bosom.

The general objects of my improvement are to produce such a shirt with the bosom neatly and durably finished and attached to the shirt-body at a cheap rate, to avoid having the front edge and surface of the border part of the bosom formed by any of the main bosom-layers, and to furnish and finish the front or face of the bosom with a raised border-band having folded edges and constituting the front surface of the edge fly of the bosom without extending rearward across the outer edge thereof.

In the accompanying drawings—

(Here follows diagram marked p. 802.)

Figure 1 is a front view of a portion of the front of a shirt that embodies one form of my invention. Fig. 2 is a front view of the bosom of the same shirt as made ready to be attached to the shirt-

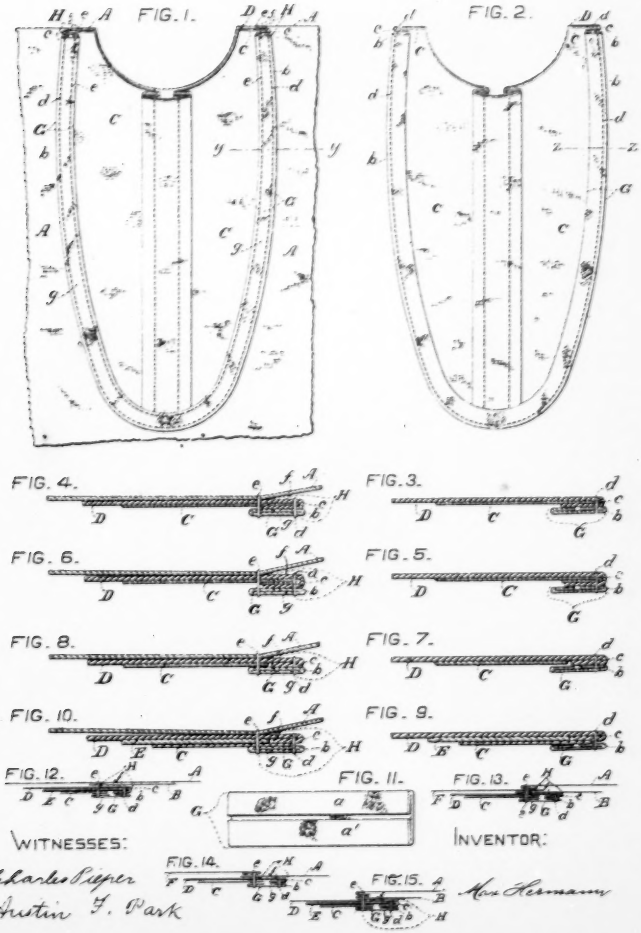
no. 174.
Cluett et al
Claflin et al } p. 802

(No Model.)

M. HERMANN.

METHOD OF SECURING A BOSOM TO A SHIRT BODY.

No. 332,799. Patented Dec. 22, 1885.



WITNESSES:

Charles Pieper
Austin F. Park

INVENTOR:

Max Hermann

body. Fig. 3 is a section of a part of the same bosom at the line *z z* in Fig. 2, and Fig. 4 is a section at the line *y y* in Fig. 1 of a part of the same bosom and shirt-body secured together. Figs. 5, 7, and 9 represent sections of the border part of variously-constituted bosoms; and Figs. 6, 8, and 10 are like sections of the same bosoms attached to a layer of the body of the shirt-front, all according to my present invention. Fig. 11 represents a part of a separate strip having folded edges and constituting the raised border and finishing-band on the front side of the bosom. Figs. 12, 13, and 14 indicate sections of the border parts of bosoms constructed and attached according to my invention to variously-constituted shirt-bodies.

Similar parts are marked by like letters in the different figures, and the parts are shown disproportioned to better illustrate the construction.

A is a layer of fabric, which in Figs. 1, 4, 6, 8, 10, and 14 constitutes the body of the shirt-front, and in Figs. 1, 4, 6, 8, and 10 is continued across the back of the bosom. In Figs. 12, 13, and 15 the layer A is re-enforced by a front layer, B, which is attached with the layer A to the bosom. In Fig. 12 the layer A is extended across the back of the bosom, and the layer B may be likewise extended.

The bosom is to be made of any desired shape, and of any proper number of layers, thicknesses, or plies of woven fabric, and either closed, as shown in Figs. 1 and 2, or in two lateral parts or halves with a lengthwise slit between to constitute an open-front bosom. The bosom is shown with a front layer, C, and a rear layer, D, and in Figs. 9, 10, 12, and 15 with an intermediate layer, E.

In Figs. 13, 14, and 15 no body-layer of the shirt-front is continued across the back side of the bosom; but that side is covered in Figs. 13 and 14 by a separate lining, F, which is attached with the body-layer A or layers A B to the bosom-layers. The rear layer, D, of the bosom is folded forward and inward, either directly upon itself, as illustrated in Figs. 7, 8, 9, 10, 13, and 14, or in front of one or more of the bosom-layers, as indicated in Figs. 1, 2, 3, 4, 5, 6, 12, and 15. G is a separate strip of woven fabric, which is folded rearward and inward along its two edges, and is arranged with its two lapping parts, *a a'*, against the front side of the border portion of the assembled bosom-layers and with the outer edge fold, *b*, of the strip along the outer edge fold, *c*, of the rear bosom-layer, D, and is there attached to the bosom alone by a line of stitches, *d*, extending through the folded outer edge part of the strip G, through the folded outer part of the rear layer, D, and through whatever layer or layers of the bosom shall intervene at said line of stitches, substantially as illustrated by Figs. 2, 3, 5, 7, and 9. The bosom having the border-band G thus attached by the row of stitches *d* is attached to the layer A or layers A B of the shirt-front by an inner row of stitches, *e*, extending through and along the inner folded edge part of the finishing-strip G, through the layers of the bosom and body of the
804 shirt-front, and through the bosom-lining when present, substantially as indicated by Figs. 1, 4, 6, 8, 10, 12, 13, 14, and 15.

By this improvement the shirt is furnished with a bosom provided with a loose border or edge fly, H, extending outward from

the inner row of stitches, *e*, and having its rear surface, *f*, and the rear part, *c*, of its edge formed wholly by the rear layer, D, of the bosom, and its front surface, *g*, and only the forward part, *b*, of its edge formed by the separate folded strip, G, which constitutes a raised ornamental band, that covers and conceals the contiguous raw edges of the bosom-layers, as shown, and may be of any desired different quality, shade, or color from the main layers of the bosom.

Some shirts have been devised with a bosom formed with a loose border having its rear surface and the rear part of its outer edge formed by the forwardly and inwardly folded border portion of one of the rear layers of the bosom, while the loose border of the bosom did not have any raised strip or band on its front side, but had its front surface and the forward part of its outer edge composed of the border part of the front layer of the bosom.

Some shirts heretofore made by me have had a bosom with an edge fly having its front surface and the forward part of its edge formed by a separate raised strip with folded edges, and the rear surface and the rear portion of the edge of the same fly formed by a reversely-folded edge portion of one of the layers of the body of the shirt-front, and I do not herein claim such a shirt.

I claim as my invention—

The method of securing a bosom to a shirt-body by folding forward the edge part of the rear layer of the bosom, placing on and along the front side of the border part of the bosom a strip folded rearward along its edges, and stitching the outer edge part of the folded strip to the bosom-layers, and the inner edge part of said strip to the bosom-layers and shirt-body, substantially as set forth.

In testimony whereof I hereunto set my hand, in the presence of two subscribing witnesses, this 28th day of March, 1885.

MAX HERMANN.

Witnesses:

CHARLES PIEPER.

AUSTIN F. PARK.

808 UNITED STATES PATENT OFFICE.

WILLIAM LORD HALL, of Troy, New York.

Method of Securing Bosoms to Shirt-Bodies.

Specification forming part of Letters Patent No. 336,106, dated February 16, 1886; application filed November 28, 1884. Serial No. 148,977. (No model.)

To all whom it may concern:

Be it known that I, William Lord Hall, of the city of Troy, county of Rensselaer, State of New York, have invented a new and useful improvement in bosom shirts, of which the following is a specification.

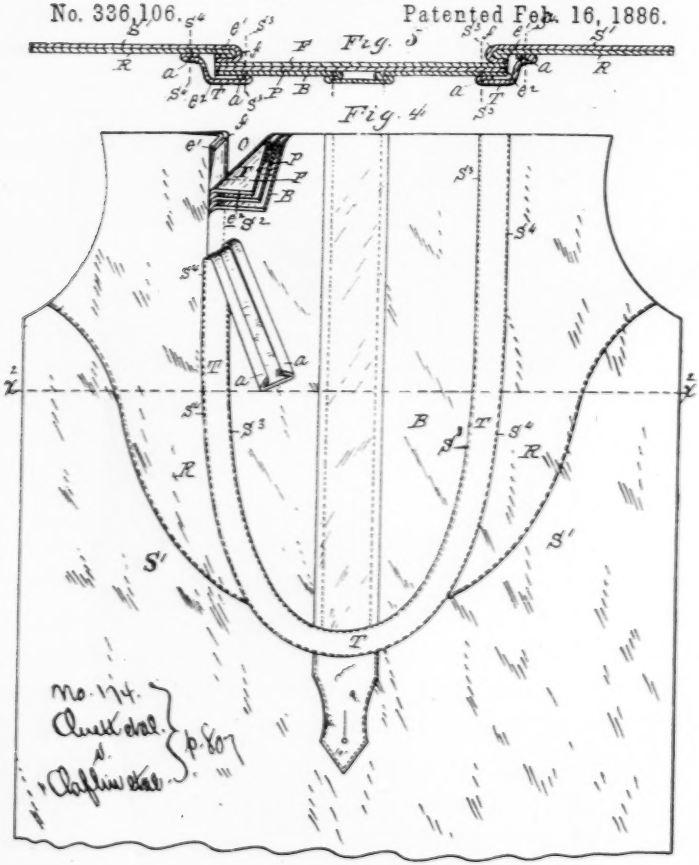
My invention relates to certain improvements in bosom-shirts; and

(No Model.) 3 Sheets—Sheet 3

W. L. HALL.

METHOD OF SECURING BOSOMS TO SHIRT BODIES.

No. 336,106. Patented Feb. 16, 1886.



WITNESSES:

Stanley M. Holden.

Charles S. Burntnall

William Lord Hall INVENTOR

BY

W. E. Hagan his ATTORNEY

(No Model.) 3 Sheets—Sheet 2.

W. L. HALL.

METHOD OF SECURING BOSOMS TO SHIRT BODIES.

No. 336,106. Patented Feb. 16, 1886.

No. 174. Cluett et al. v. Claflin et al. } p. 806

Fig. 2

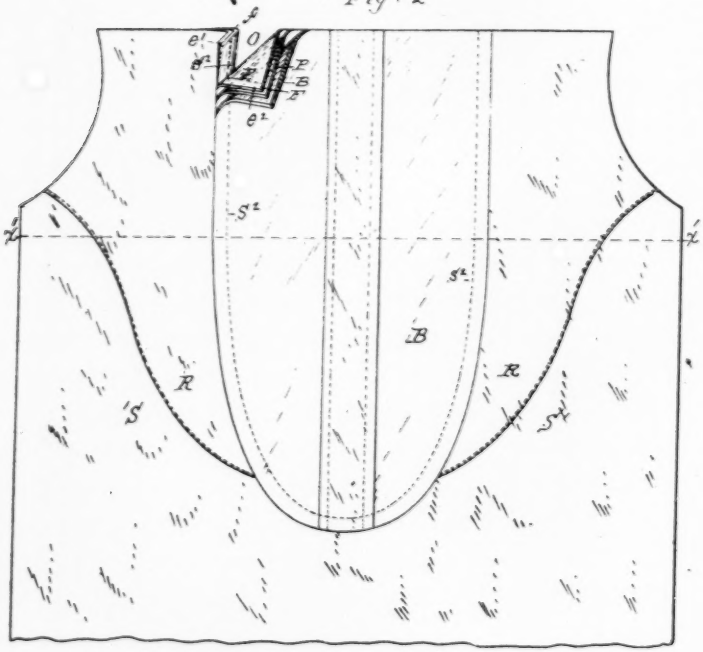
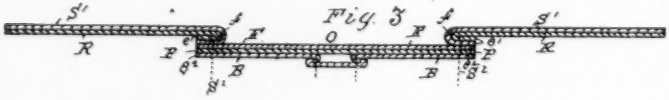


Fig. 3



WITNESSES:

Stanley M. Holden.

Charles S. Brimtnall

William Lord Hall INVENTOR

BY

W. E. Hagan his ATTORNEY

(No Model.) 3 Sheets—Sheet 1.

W. L. HALL.

METHOD OF SECURING BOSOMS TO SHIRT BODIES.

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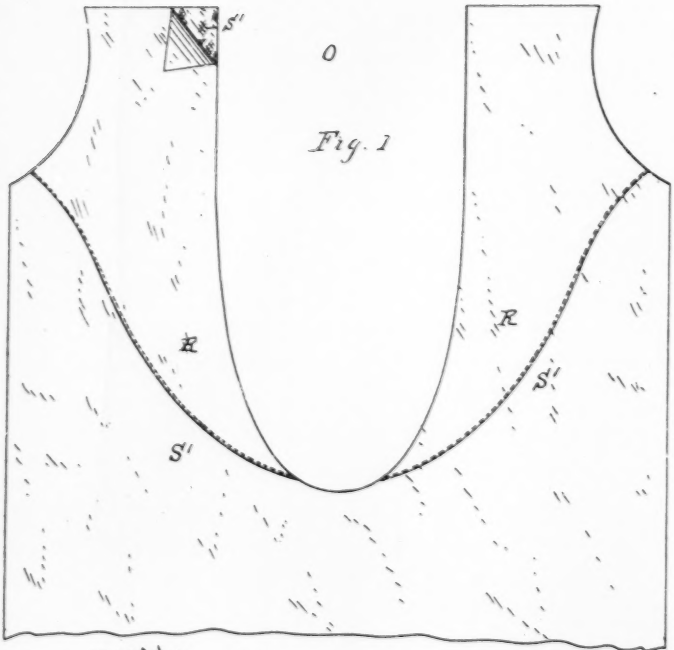

Fig. 1

No. 174.
Cluett et al.
Claflin et al. } p. 805.

WITNESSES:

Stanley M. Holden

Charles S. Burntnall

William Lord Hall INVENTOR

BY

W. E. Hagan his ATTORNEY

the object and purpose of my invention is to simplify the attachment of the bosom and shirt, and thus to reduce the cost of it as regards the time and labor required to make it.

My invention consists (as will be more fully detailed hereinafter in connection with its illustration) of an attachment of bosom and shirt body or front, produced by cutting out the latter to receive the bosom, uniting the edges of the bosom and the edges of the opening thus made a short distance from the edges of both, turning over and down the sewed edges of shirt and bosom on the shirt-front on the line of their sewed union, with an exterior finish that is produced by a bias-cut strip having turned-in edges on both of its sides, and which strip is sewed to the bosom and the shirt-front, so as to cover the turned-down edges of the seam uniting the bosom and shirt.

Accompanying this specification, to form a part of it, there are three plates of drawings—

(Here follow diagrams marked pp. 805, 806, & 807.)

—containing five figures illustrating my invention, with the same designation of its parts by letter reference used in all of them. Of these illustrations figure 1 shows a plan view of the shirt front or body made with an attached front re-enforce with the said parts cut out to receive a bosom, the corners of the parts at one side of the top of the opening being turned down to illustrate their relative position. Fig. 2 shows the shirt-front cut out as at Fig. 1, and the bosom sewed to the edge of the opening a short distance from the edges of bosom and body where the latter is cut out, with the parts at the upper corner of the opening ripped apart and turned down. Fig. 3 is a cross-section taken on the line x' x' of Fig. 2, with the thickness of the parts shown as exaggerated, to better illustrate them. Fig. 4 shows the shirt as containing the completed attachment, with the finishing bias strip ripped from its connection at one end and the union of bosom and the edges of the opening cut for the latter, also ripped apart and turned over and down at the upper corner of the bosom. Fig. 5 shows a cross-section of the completed attachment of bosom and shirt, taken on the line x^2 x^2 of Fig. 4.

The several parts of the shirt and bosom and strip are designated by letter reference, and the several process steps by which the parts are attached are described as follows:

The letter S′ designates the shirt-front, shown as made with a front re-enforce, R, and the letter O an opening formed to receive a bosom.

The letter B indicates the bosom proper, it being made with a thickness of ply, P, and an inner facing, F.

The letter S^2 designates a seam uniting the bosom and the opening in the shirt-front a short distance from their coincidently-laid edges, the edges of the shirt-front at the opening being designated at e', and those of the bosom indicated at e^2.

The letter f designates a fold made in the shirt-body on the line of the seam S^2 and near its edge e', and by which fold that part of the edge beyond the seam is turned down on the shirt-front with the

edges e^2 of the bosom laid over the said folded-down edge of the opening.

The letter T indicates a strip cut on a bias line from the fabric, said strip having the turned-in side edges, *a a*.

The letter S^3 indicates a line of stitching connecting one edge of the strip T to the bosom through one of its turned-in side edges *a*, and said seam being inside of the seam S^2, which unites the bosom and front around the opening, and S^4 indicates a seam through the strip T, and its outer turned-in edge uniting the strip thereat to the shirt body or front outside of the turned-down edges of the cut-out opening laid by the fold *f*. The attachment thus made and the process steps by which produced are simple ones, in which the turned-down edges of the opening were overlapped by the bosom-edge, and as covered by the bias-cut strip and secured by the latter form a strengthening-border around the bosom which is very easily applied.

While I have shown a bosom made with a ply and facing,
809 the ply may be omitted, and so may the re-enforce R, although I prefer to use both in carrying out my invention.

Having thus described my invention, what I claim, and desire to secure by letters patent, is—

The method herein described of securing the bosom to the shirt-opening, which consists in uniting the edges of the bosom and the edges of the shirt-opening by a common seam line of stitches, then turning the seam-edges of the united bosom and shirt-opening outward onto the shirt-front, then stitching one edge of a bias strip of material having turned-in edges to the bosom inside of the line of union to the shirt-opening, and finally securing the outer and other edge of said bias strip to the shirt-front by a line of stitches arranged outside of the edge of the folded seam and outside of the edge of the bosom.

Signed at Troy, New York, this 22d day of October, 1884, and in the presence of the two witnesses whose names are hereto written.

WILLIAM LORD HALL.

Witnesses:

CHARLES S. BRINTNALL.
C. H. SHEPARD.

810 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on the part of the defendants, under and pursuant to the 67th rule of the Supreme Court of the United States, as amended, before John A. Shields, Esq., a standing examiner of said court.

NEW YORK, *December 2d*, 1885.

Present: J. A. Skilton, Esq., of counsel for complainants, and L. C. Raegener, Esq., of counsel for defendants.

Mr. HIRAM N. FORD, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. Please state your name, age, residence, and occupation.

A. Hiram N. Ford; age, 48 years; I reside at Chatham, N. Y.; I am a commercial traveler.

Complainants' counsel objects to the examination of the witness at this time on the ground of want of due notice.

811 Defendants' counsel offers to adjourn the hearing if plaintiffs' counsel desires the same.

Complainants' counsel consents taking the testimony of this witness without waiving the objection already made.

Q. 2. Were you subpœnaed?

A. Yes.

Q. 3. Will you define your business of commercial traveler more particularly?

A. I represent E. R. Van Nest & Co., manufacturers of horse clothing, lap robes, &c., 120 Chambers street and 51 Murray street, New York.

Q. 4. Have you ever been engaged in the manufacture and sale of shirts? If so, please state where and during what period.

A. Yes, sir; between 1864 and 1879, at Chatham, New York.

Q. 5. What kind of shirts did you manufacture at that time and to whom did you sell them?

A. White and colored gentlemen's shirts, linen and print.

Q. 6. To whom did you sell them?

A. To consumers, at retail.

Q. 7. Was a man named Myron E. Clarke in your employ while you were doing business at Chatham?

A. He was.

Q. 8. During what period?

A. He was with me in the neighborhood of 12 years, from about 1867 to 1879.

Q. 9. I now show you a shirt bearing the stamp H. M. Ford, shirt-maker, Chatham village, New York, and ask you whether the same was made by you.

A. I should presume that it was, or under my supervision.

The same is marked for identification Def'ts' Ex. A.

Q. 10. Please describe to us the kind of white shirt that you
812 made, having reference to the setting of the bosom upon the shirt body, whether the bosom was bound or not; how it was united to the shirt body, and if it had any stitches through the binding; and, if so, how many.

Objected to as leading and as indefinite.

Defendants' counsel states that, the witness having asked what would be the penalty for refusing to answer the question at this time, counsel for both parties went before Judge Coxe with the question, and Judge Coxe thereupon stated to defendants' counsel that he referred the matter to Commissioner Shields, the examiner, and if Mr. Shields said he (the witness) must answer he must do so. He also stated that he was too busy and could not attend to it.

The examiner rules that he has no right in the premises, on the 67th rule of the Supreme Court, to compel the witness to answer.

A. I decline to answer at this time.

Judge Wheeler directed Judge Brown to rule upon the question, and Judge Brown directs the witness to answer and allows the question.

A. Yes, sir; the bosom was made of two or more parts, being bound with a bias strip of linen; then stitched on edge of binding through the body of the shirt. Sometimes we use two rows of stitches through the binding and sometimes one.

Q. 11. Please describe the bosom and the binding thereof in detail.

A. You couldn't call it really a shield, but it had a shield shape, being 9 inches wide in the centre, for instance, tapering both ways. The upper angles were cut off, as shown in Fig. 1, drawn by me.

We used to use from two to four thicknesses of linen and
813 cotton combined. We always used a strip of linen cut on the bias for binding. I first used a tape as a binding. It would not work in a satisfactory manner.

Q. 12. How did you sew the binding upon these several thicknesses or layers of the shirt bosom?

A. Sewed the binding through the bosom first; then folding it over the edge, stitching through binding onto body of shirt.

Q. 13. How many rows of stitches did this show on the binding of the bosom now attached to the shirt, as described by you in your previous answer?

A. Sometimes one and sometimes two. It depended upon the grade of the shirt altogether.

Q. 14. Will you please make a sketch upon the paper handed you, which we will call Fig. 2, showing the shirt bosom and the body complete, with reference to the questions upon which you have — asked?

A. I have done so.

Q. 15. Will you please indicate upon the sketch, Fig. 2, what lines represent the stitching, and then mark them A, B, and C, and so forth?

A. I have done so. I have marked the outer stitch A, the inner one B. We sometimes use only one row of stitches. That would be represented by the letter A.

Q. 16. What represents the binding upon Fig. 2?

A. The two rows of stitches combined—the space between the lines A and B. I now proceed to illustrate this by cutting a shirt bosom and a piece of binding out of a sheet of paper, calling the completed thing Ford model. The two dotted rows represent the stitching.

Defendants' counsel offers in evidence sketches and model made by witness, and the same are marked Def'ts' Ex. Ford, Figs. 1 and 2, and Def'ts' Ex. Ford Model.

814 Q. 17. Def'ts' Ex. A heretofore shown you shows a bound bosom on a shirt body, the bosom having a binding consisting of a biased strip of linen, two rows of stitches through the binding fastening the bosom on the shirt, and this Ex. A is in all respects similar to Def'ts' Ex. Ford, Fig. 2, and Ford Model, is it not?

Objected as leading question; withdrawn.

Q. 17. Referring to your previous testimony and to Defendants' Ex. Ford, Fig. 2, and Ford Model, please explain how Def'ts' Ex. A is made.

A. Def'ts' Ex. A is made exactly as I have heretofore previously described in words, figures, and model.

Q. 18. Please give us the earliest date when you made shirts like Def'ts' Ex. A.

A. In 1865 or 1866; I can't tell which.

Q. 19. In what quantities at and from that time?

A. It would be difficult to answer at present; as my customers desire; more than a dozen.

Q. 20. Did you make more than 12 dozen shirts like Def'ts' Ex. A before January 1st, 1870?

Objected to as leading and immaterial.

A. Yes, sir.

Q. 21. And what did you do with these 12 dozen or more shirts like Def'ts' Ex. A which you made before January 1st, 1870?

A. Sold them to my customers.

Q. 22. And where did you make and sell these 12 dozen or more shirts like Def'ts' Ex. A?

A. At Chatham, Columbia Co., New York.

Q. 23. Did you ever make a shirt like Def'ts' Ex. A for a man by the name of Mr. Thomas, formerly of Troy, New York?

A. I made shirts for a Mr. Thomas—Henry R. Thomas, now of Troy; lived at Troy since he was a boy. He is a member of the firm of John D. Spicer & Co., of Troy.

815 Q. 24. At what time was this?

A. Prior to 1870; the books will show.

Q. 25. Can you tell us whether these shirts like Ex. A which you made for Henry R. Thomas ever came into the possession of George B. Cluett, Bro. & Co., of Troy?

A. I have every reason to believe they did prior to 1870; but I must state that the Thomas shirts were identical with Def'ts' Ex. A, excepting having been open in front.

The direct examination is closed.

Complainants' counsel states that he proceeds with the cross-examination of this witness, but without waiving any of the objections previously made and expressly reserving all of the complainants' rights thereunder.

Q. 26. Have you fully described the bosom shirts made by you prior to 1879, in which a binding was used and the method of making the same?

A. I think I have.

Q. 27. The dates you have given you fix by memory and not by any books or written memoranda of any kind, do you?

A. Both.

Q. 28. Have you used any books or written memoranda in giving your testimony here to-day?

A. I have not.

X Q. Have you any here in your possession to-day?

A. I have not.

X Q. Have you referred to any books or written memoranda to ascertain the date of the transactions testified to since you were subpœnaed in this case?

A. No, sir; or prior to this date either.

X Q. How long since you have seen any memoranda or written records relating to the manufacture of the shirts like Def'ts' Ex. A, or like those shown in Ford's figures 1 and 2 and the Ford model?

816 A. I have not seen that shirt (Def'ts' Ex. A.) until it was shown to me here to-day. It will be six years since I went out of business, and I have seen no written memoranda relating to the matter since that time and fixing the date of the manufacture of these shirts.

X Q. Are you able from memory to fix the date of the manufacture of the shirt Def'ts' Ex. A?

A. No, sir.

X Q. Are you able to fix the — of its manufacture at all?

A. No, sir; not of that particular shirt—that is, Ex. A.

X Q. I find on the tab—the tab of the shirt Def'ts' Ex. A—the

following words and letters: "J. H. Mambert." What does that mean?

A. I didn't put it on. I guess it means that this man Mambert, who is in the employ of some concern in Albany, got the shirt from Mr. Clark, who is my successor in business.

X Q. What concern in Albany do you refer to?

A. Mack & Co., I think.

X Q. Who is Mr. Mambert?

A. I don't know.

X Q. Have you made any other shirts, except those already mentioned, in which a binding was used or applied upon the edge of the bosom?

A. No, sir.

X Q. Who got up these shirts or invented them, if there was any invention in them, or who suggested putting the binding on?

A. No one but myself.

X Q. You consider yourself, then, the inventor, do you, of shirts made like Def'ts' Ex. A?

A. I do; if you call it invention.

X Q. Do you call it invention?

A. I call it an improvement on the old manner of attaching a bosom to the body of a shirt.

X Q. Did you think when you made the first one that you had made any invention?

817 A. I considered that I had made an improvement.

X Q. An improvement on what?

A. On the old manner of attaching a bosom to a shirt.

X Q. What do you mean by the old manner?

A. The old manner of attaching a bosom to a shirt was by inserting the body of the shirt between two pleats or pieces of cloth, then stitching them or sewing them together on the surface. We did not know anything about a plain-faced bosom; used pleats altogether. The manner of attaching the body of a shirt to the bosom was by cutting out a space in front of body of shirt a trifle smaller than the bosom, thus giving sufficient cloth at the sides to be inserted between pleats.

X Q. Did you apply for any patent?

A. I did not.

X Q. Why not?

A. Simply because I did not consider it worth patenting.

X Q. If you had made any invention then you intentionally abandoned it, did you?

A. I did.

X Q. 46. Did you make any of these shirts between January, 1875, and 1879?

A. I did.

X Q. 47. How many?

A. A hundred or more.

X Q. 48. When did you first hear of the Cluett's patent here in suit?

A. In 1882.

X Q. 49. How did you first hear of it?

A. Through Messrs. Andrews and Garry, of Troy, New York, who were in business at that time.

X Q. 50. How came they to talk to you about it?

A. I went into their place of manufactory to get measured for some shirts, having on at that time a shirt made like Def'ts' Ex. A. I was asked by Mr. Garry who made my shirt; told him it was
818 made by M. E. Clark, of Chatham, New York. I asked Mr. Garry to make shirts exactly like the one I had on. Mr. Garry said the shirt was patented and he could not make them. I then said, "Give me the date of this patent." He gave me the date, which I do not now remember. I then said he could not sustain his patent. I said to Mr. Garry that I had used that binding some years before his patent was granted and could prove it.

H. M. FORD.

Adjourned until December 7th, at 2 p. m., the commissioner having directed the witness to attend at that time, the witness fee having been paid him.

NEW YORK, *December* 7, 1885—2 o'clock p. m.

Met pursuant to adjournment.

Present: Counsel as before.

Continuation of cross-examination of the witness, HIRAM M. FORD:

X Q. 51. Have you had any conversation with any one since your last examination in regard to the matters testified of by you in this case?

A. No, sir.

X Q. 52. When was the matter of your testifying in this cause first brought to your attention and by whom?

A. Well, I can't call him by name; it was one of the defendants. I suppose that they are the defendants; I don't know whether they are. My attention was first called to the matter, I should say, in September, 1885. I was introduced to the gentlemen by Mr. Thomas, boarding at the Mansion House, Troy, New York.

X Q. 53. Was the name Wallerstein?

A. I think it was.

819 X Q. 54. You say in answer to question 11 that you first used a tape binding, but that it would not work in a satisfactory manner. What was there unsatisfactory about the working of the tape as a binding?

A. It would wrinkle in turning lower part of bosom.

X Q. 55. Did you make up a shirt with the tape binding and try it?

A. I did.

X Q. 56. How many shirts did you make with a tape binding?

A. One or more.

X Q. 57. For whom were they made?

A. I cannot at present say.

X Q. 58. Was it a customer?

A. It was.

X Q. 59. Did he say that the shirt was unsatisfactory on that account?

A. I cannot say that he did.

X Q. 60. How did you find out that this method was unsatisfactory?

A. By personal observation.

X Q. 61. Do your books show who these shirts were made for with the tape binding?

A. I cannot say that they will.

X Q. 62. Did the party continue to wear them for whom they were made?

A. I presume he did.

Answer objected to as irresponsive.

(Question repeated.)

A. I do not know.

X Q. 63. How long afterward did you make another shirt with a tape binding?

A. I cannot say.

X Q. 64. Did you make more than one shirt or the lot in this manner with tape binding?

A. I made several.

X Q. 64½. Several lots?

820 A. Several shirts.

X Q. 65. For more than one party?

A. I cannot at present say.

X Q. 66. Do you remember making any shirts with a tape binding for the bosom except the one lot of shirts you have previously spoken of; and, if so, for whom were they made?

A. I cannot now remember making more than one lot; I presume I made a great many.

X Q. 67. Were all that you made with a tape binding made in the same manner?

A. They were.

X Q. 68. How were they made—that is, how was the binding put on?

A. In the same manner as those that were bound by a strip of linen.

X Q. 69. How many lines of stitches were used?

A. I answer that by asking how many were shown.

(Question repeated.)

A. Two or three.

X Q. 70. Where were they located?

A. On binding of bosom.

X Q. 71. Just as they appear in the shirt, Defendants' Exhibit "A"?

A. Yes, sir.

X Q. 72. You immediately abandoned that method, as I under-

stand you, in which a tape binding was used as you have just described?

A. I did.

X Q. 73. The shirts you made in that way, I suppose, were merely experimental?

A. They were.

X Q. 74. How many shirts did you make with one row of stitching through the binding, and for whom?

A. I cannot now remember, nor for whom.

X Q. 75. About how many should you think, and for how many persons?

821 A. I cannot remember.

X Q. 76. Down to the time when you went out of business, in 1879, about how many shirts had you made in which the bosoms were bound?

A. I cannot say.

X Q. 77. Say as near as you can.

A. Five hundred.

X Q. 78. It might not have been half that, I suppose?

A. No; and it might have been ten times that. I have forgotten all about it. I have been out of the shirt business 6 years.

X Q. 79. Will you swear that you had made 250 bound-bosom shirts prior to 1879?

A. I will.

X Q. 80. Can you produce one of the 250?

A. I cannot say that I can.

X Q. 81. Have you one of them in your own possession at this time?

A. I may possibly have, but I don't know that I have.

X Q. 82. Do you know where there is one of them in existence at this time?

A. Yes, sir.

X Q. 83. Where?

A. In defendants' possession.

X Q. 84. Did you swear that you made that shirt?

A. I did not.

X Q. 85. Will you swear now that you made it?

A. I will not.

X Q. 86. Do you know where there is a shirt with a bound bosom in existence that you will swear that you made prior to November 17, 1874?

A. I do not.

X Q. 87. Your only means of identifying Defendants' Exhibit "A" as your manufacture, then, as I understand you, is the fact that your name is now stamped upon it. Is that the case?

A. It is.

822 X Q. 88. What did you do with your stamps when you went out of business, in 1879? What became of them, I mean.

A. I left them with Messrs. Smith & Clark, to whom I sold my business.

X Q. 89. Did they continue to manufacture shirts like Defts' Exhibit "A" subsequent to your sale to them, in 1879?

A. Yes; they did.

X Q. 90. Did they make any for you personally after that sale?

A. They did.

X Q. 91. How many?

A. Six.

X Q. 92. When?

A. About 1880.

X Q. 93. Where are they now?

A. At Chatham, N. Y.

X Q. 94. Will you please produce them at your next examination?

A. I will if I can. I believe there are only two of them left, or the remnants of them.

X Q. 95. Were those 6 shirts stamped with the name of your successors?

A. I think not.

X Q. 96. Are you sure they were made like Defts' Exhibit "A" in every particular so far as the bosom and binding are concerned?

A. I cannot say whether they had one or two rows of stitching which showed on the surface.

X Q. 97. Which style did you make first—the one with one row or that with two rows of stitches?

A. With one row.

X Q. 98. I understand in other respects—that is, except as to the additional row of stitches—these shirts, binding, &c., were like Defts' Exhibit "A"?

A. They were.

X Q. 99. When you used the tape binding did you fold one
823 edge of the tape under the edge of the bosom, as in Defts' Exhibit "A," so that that edge laid between the bosom and the body of the shirt?

A. I did.

X Q. 100. As I understand you, all the shirts that you made, so far as the bodies were concerned, were like Defts' Exhibit "A"?

A. Nearly so. Sometimes I used double backs, sometimes double front.

X Q. 101. The bosoms were laid on the bodies, I suppose, and not inserted?

A. That would depend upon whether shirts were open in front or on back.

X Q. 102. In the open-back shirts the bosoms were always laid on, were they not, and not inserted?

A. They were laid on and not inserted.

X Q. 103. Will you please state what the object was in making what you call your improvement on the old mode in the use of binding?

A. To prevent the body of the shirt from cracking across the bosom.

X Q. 140. Any other object?

A. To make the shirts wear better.

X Q. 105. Any other object?

A. For looks.

X Q. 106. In what respect?

A. An improvement to the eye.

X Q. 107. In what respect?

A. My individual eye; the external appearance of the bosom was more agreeable to my eye.

X Q. 108. More agreeable than what?

A. Than the old-fashioned bosom; the old-fashioned square-plaited bosom.

X Q. 109. Then a part of the improvement consisted in a change of the shape of the bosom, did it not?

A. It did.

X Q. 110. Was there any other practical object you had in view except those already mentioned? If so, please state it.

824 A. None other.

X Q. 111. As I understand you to say in answer to question 17, Def'ts' Exhibit "A" is made exactly as you have intended to describe the invention as your method of making bound-bosom shirts in words used by you, in the figures, and in the model made by you?

A. It is.

X Q. 112. And you never made any bound-bosom shirts in any other way except the variations in using one stitch instead of two; is that correct?

A. It is correct; I never did.

X Q. 113. Do you know where Mr. Clarke got the "Maurbert" shirt, Defendants' Exhibit "A"?

A. It is one I inventoried to Messrs. Smith & Clark, so Mr. Clark says.

Answer objected to as irresponsive and incompetent.

X Q. 113½. You do not know that this identical shirt was so inventoried, do you?

A. I cannot swear that it was.

X Q. 114. Your successors, Smith & Clark, have the same patterns to cut their shirts by as were originally made and used by you, have they not?

A. They have.

X Q. 115. They use them in their business, do they not?

A. Mr. Clarke, who is the successor of Messrs. Smith & Clark, uses them.

X Q. 116. You cannot tell from the examination of the shirt, Defendants' Exhibit "A," whether it was made by you or Mr. Clarke or by Smith & Clarke in any other way than by supposing it is your make because it bears your stamp; is that so?

A. I cannot.

X Q. 117. Did Mr. Thomas ask you to testify in this case when he introduced you to Mr. Wallerstein or at any other time?

A. No, sir.

825 X Q. 118. Did Mr. Wallerstein ask you to do so?

A. He virtually did.

X Q. 119. What did he say?

A. I can't remember the conversation that occurred.

X Q. 120. Give the substance of it.

A. It was to the effect that they expected to be prosecuted for the infringement of patent, and that they might desire me as a witness.

X Q. 121. What did you reply?

A. I asked the question, "What do I get out of it?"

X Q. 122. What did he say you would get out of it?

A. He asked me what I wanted.

X Q. 123. One thousand dollars?

—. ——.

X Q. 124. What reply did he make to that?

A. He thought it was reasonable, providing the evidence was sufficient to break the patent or if a compromise was made.

X Q. 135. Did you say that you thought that evidence would be sufficient for those purposes?

A. I did not. I stated to him that the evidence I could furnish would be sufficient for those purposes.

X Q. 126. What did you mean by the evidence you could furnish?

A. I meant a perfect chain of evidence in the hands of defendants.

X Q. 127. To what effect?

A. Starting with myself as original inventor, if an invention has been made, including the evidence of two clerks (one having been with me three years and the other two years), namely, John H. Cornelius, Jr., at present conductor on the New York and Harlem railroad, with headquarters at Grand Central depot, and the other, Myron E. Clark, of Chatham, N. Y. Mr. Cornelius was with me in the years 1864, 1865, 1866, and 1867—it might have been a
826 little longer—together with the evidence of Judge Hugh W. McClennan, of Chatham, N. Y., county judge, winding up with the evidence of Henry R. Thomas, of Troy. That is all.

X Q. 128. Did you make a bargain on those terms?

A. I suppose such bargain was made.

X Q. 129. From what did you derive that supposition?

A. From conversation with a gentleman whom Mr. Thomas introdued me to, supposed to be Mr. Wallerstein, and who was a fellow-boarder with Mr. Thomas at the Mansion House, Troy.

X Q. 130. How long did the supposition continue that you had made a bargain with the defendants or one of them on these terms?

A. Up to the present time, if they are responsible.

X Q. 131. Suppose the patent is not broken and no compromise is made in this case, what are you to get for your testimony and services in that event according to your understanding?

A. Lawful expenses, subpœna fees, and mileage.

X Q. 132. That is to say, if the defendants do not succeed in this suit you are to get simply disbursements and the regular witness fees?

A. Yes, sir.

X Q. 133. How is it proposed to divide this 1,000 dollars in case the patent is broken or the matter compromised?

A. I propose to put it in my own individual pocket, sir.

X Q. 134. What pay are the other witnesses to receive? Is there any understanding about it?

A. None that I know of.

X Q. 135. What are your expectations as to reimbursement of the other witnesses for their time, &c.?

A. The law provides for such.

X Q. 136. Then you propose to pocket the entire 1,000 dollars, as I understand it?

A. I do if I get it.

827 X Q. 137. Why did you decline to answer question 10 of counsel on the other side on December 2nd?

A. On the ground that the 1,000 dollars was to be deposited in some bank to be designated, and not having heard that such deposit had been made I declined to answer.

X Q. 138. Did you come to an understanding with Mr. Wallerstein or the gentleman to whom Mr. Thomas introduced you that such a deposit was to be made?

A. I did.

X Q. 139. Was you requested to appear without subpœna previous to being served with a subpœna herein?

A. I was not.

X Q. 140. Was you surprised at being subpœnaed?

A. I was not.

X Q. 141. In the absence of the subpœna and the deposit of 1,000 dollars not having been made in the bank, would you have appeared to give your testimony herein?

A. No, sir.

X Q. 142. As it is you expect to hold the defendants to the payment of the $1,000, do you?

A. I do.

X Q. 143. Neither Mr. Wallerstein nor either of the other defendants have repudiated such claim on your part, have they?

A. No, sir.

Defendants' counsel says that he will prove that there was no such bargain made and if it needs any repudiation of the alleged bargain he does so now, by and with authority of the defendants.

X Q. 144. Were there any witnesses to this bargain between you and Mr. Wallerstein?

A. No, sir.

X Q. 145. Where was it made?

828 A. In the Mansion House, Troy, New York.

X Q. 146. Was Mr. Thomas present during any part of the conversation?

A. Not within hearing.

X Q. 147. Was he in the room?

A. He was.

X Q. 148. Had Mr. Thomas explained the matter to you previously?

A. Yes. That comes in under another explanation.

X Q. 149. Please make that explanation.

A. During the month of August, 1885, while at the Hotel Brunswick, Albany, New York, I received a note from a concern signing themselves Mack & Co., who were represented on their letter heading as being manufacturers of shirts at Albany, requesting me to call at their office. I paid no attention to the same until I had received another letter which had been directed to the care of the house I represented; thence forwarded to me, care of Hotel Brunswick, Albany. I then called upon Mack & Co. Mack & Co. not being in, I left my address as stopping at Hotel Brunswick, where they could see me, naming the hour. Mr. Mack called upon me there, asking me if I had ever made shirts at Chatham, New York. I told him I had. He then asked me what sort of a shirt I manufactured while there. I then asked him what he was driving at. He then went on to explain that he had been or was about to be served with an injunction restraining him from disposing of a certain quantity of shirts already made, and that I could help him out. I refused to do it without being compensated. He asked me how much I wanted. I asked him how much it was worth. He said in the neighborhood of $200, and my reply was that I was no $200 man. He then asked me what I would take. I said it was worth $1,000 or nothing. He wanted to know the terms of payment upon evidence sufficient to break the patent or a compromise was
829 made. I then went to Troy and related the circumstances as they occurred about to my friend, Mr. Thomas.

Adjourned to December 8th, at 11 a. m.

H. M. FORD.

NEW YORK, *December*, 1885—11 o'clock a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Continuation of cross-examination of witness, HIRAM M. FORD:

X Q. 150. How came you to go and tell the story to your friend, Mr. Thomas?

A. I think I telephoned him that I would be up there at a certain hour, and gave that as an excuse for being late.

X Q. 151. Had you a previous appointment with him or had you talked over shirt matters with him before that time?

A. No, sir; to the last part of the question. I am always in the habit of telephoning or telegraphing him when I am about to arrive in Troy.

X Q. 152. What are your relations with him—business or other?

A. Old acquaintances. I have no business whatever with him.

X Q. 153. What occurred when you met Thomas at that time, and what was said?

A. My answer to cross-question 149 explains the conversation that occurred between Mr. Thomas and myself. Mr. Thomas said nothing of importance.

X Q. 154. Did he say anything to you at that time about Tim & Co. or about this suit?

A. No, sir.

X Q. 155. When did you first talk to Mr. Thomas about this suit or with the defendants, either of them?

830 A. It was at my next or second visit afterward to Troy, either September or October, 1885.

X Q. 156. State what then occurred and what was said by both parties.

A. Mr. Thomas spoke to me, saying that the gentleman whom he afterward introduced me to wished to see me, but nothing was said about a shirt, I think. I may have said to Mr. Thomas, "Who is the gentleman?" and he may have answered, "He represents a shirt concern."

X Q. 157. When was the next interview with Mr. Thomas, and what was then said and done?

A. He introduced me to this gentleman before mentioned and I had a conversation with said gentleman, as already stated in my testimony and cross-examination.

X Q. 158. Up to this time, as I understand you, the time of the conversation at the Mansion House with Mr. Wallerstein, had you had any conversation with Mr. Thomas on the subject of the bound-bosom shirts?

A. I may possibly have had; cannot now recollect.

X Q. 159. State where and when and what conversation that you can now recall you first had with Mr. Thomas on that subject, and state what was said at that time.

A. The conversation was the same as that related to him that I had with Mack & Co.

X Q. 160. Please give it in detail.

A. I have already given it.

X Q. 161. Please give it again.

A. I do not think it necessary.

Question repeated.

A. I still do not think it necessary.

Counsel for complainants states that since the witness refuses to answer the question he will now suspend the examination,

831 and gives notice of motion to strike out the entire testimony of this witness.

The witness agrees to answer.

Question repeated.

A. I related the conversation I had with Mack & Co. Mr. Thomas took no part in the conversation.

X Q. 162. When was the subject of the shirts made by you for Mr. Thomas first brought up by you, and where between you?

A. Possibly at that time. I may have asked Mr. Thomas if the

Cluetts ever made any shirts for him. I did at some interview with him during the fall some time.

X Q. 163. What did he reply to such a question whenever it was put to him?

A. That he had had.

X Q. 164. Did he tell you when?

A. I cannot say that he did.

X Q. 165. What further conversation did you have with him in that connection?

A. I cannot recollect of any.

X Q. 166. Have you had any conversation with Mr. Thomas about any shirts made for him by you?

A. I cannot think I have.

X Q. 167. Has he ever said to you that any such shirt belonging to him was shown to George B. Cluett, Brother & Co. by him?

A. I think he told me he had one of my make of shirts on when Messrs. Cluett measured him for those they made for him.

X Q. 168. Did he say when that occurred?

A. I cannot say he did.

X Q. 169. Did he say that any notice was taken of the shirt on any such occasion by Messrs. Cluett?

A. I do not recollect that he did.

X Q. 170. In answer to direct question 25 you say in answer to the question "whether these shirts, like Exhibit 'A' which
832 you made for Henry R. Thomas, ever came into the possession of George B. Cluett, Brother & Co., of Troy," and you answered, "I have every reason to believe they did prior to 1870." What reason had you for such belief?

A. I am not aware that I said "that they came into their possession" only as having been seen on Mr. Thomas's back while being measured by Messrs. Cluett & Co. for shirt or shirts, Mr. Thomas having told me that Messrs. Cluett & Co. had made shirts for him.

X Q. 171. Then, as I understand, you have reason to believe that George B. Cluett, Brother & Co. saw a shirt with a bound bosom on Mr. Thomas prior to 1870, when Mr. Thomas was being measured by them preparatory to making him some new shirts?

A. Well, as to 1870—as to the particular year, I cannot recollect.

X Q. 172. You state in your answer to question 25 that "it was prior to 1870." Do you wish to correct that statement?

Witness requests to hear the question 25 read.

Question and answer read.

A. I do; I withdraw the date of 1870.

X Q. 173. What date do you put in its place, or do you withdraw the whole answer to question 25?

A. 1874. I only withdraw the date.

X Q. 174. On what ground or by what means do you change the date from 1870 to 1874? Might it not just as well have been in 1875 or 1876?

A. Well, I may have made shirts for him in 1868. I cannot tell

without the books. I may have the books; they may be in possession of Myron E. Clark, of Chatham.

X Q. 175. Have you had possession of the books since 1879 at any time?

A. I may possibly have had. I have not seen them since. I have been on the road as a commercial traveler since April 6th, 1880.

833 X Q. 176. When did you last have possession of these books positively?

A. I cannot tell.

X Q. 177. Have you had possession of them since January, 1880?

A. I may possibly have had.

Question repeated.

A. I cannot recollect.

X Q. 178. Did you transfer the entire business and appointments to your successors, Smith & Clark, including the books?

A. Excepting the books, I did.

X Q. 179. What was done with the books?

A. I left them with Messrs. Smith & Clark.

X Q. 180. Have they ever placed them in your hands or possession since that time?

A. They have not.

X Q. 181. Have you had them in your hands or possession since that time, January, 1880? Please state only what you know and not "what is possible."

A. I cannot remember.

X Q. 182. So far as you remember, then, you never have seen or had possession of these books since January, 1880. Is that what you mean?

A. It is.

X Q. 183. When you sold out your business was the sale a voluntary sale or a forced sale?

A. Voluntary.

X Q. 184. It was not sold on execution?

A. Well, you are striking into two different concerns now. Myself individually was sold out under executions in 1878 or 1879, I can't tell which one. I then started business, started business in my brother Lorenza B. Ford's name, afterwards transferred by him to my wife, Helen A. Ford. It was within a year from the time I started business in my brother's name; subsequently the busi-

834 ness of my wife was sold out to Messrs. Smith & Clark by contract of sale and not by execution.

X Q. 185. And did the books covering these periods referred to all go into the hands of Smith & Clark or did you retain any portion of them?

A. I retained the books appertaining to the business of Helen A. Ford, my wife. The old books were left in the hands of Smith & Clark.

X Q. 186. Where are the books containing the business records of Helen A. Ford now?

Objected to as immaterial and irrelevant. Her books cover a period subsequent to complainants' patent.

The usual notice given.

A. Remnants of the same are in possession of Helen A. Ford, my wife.

X Q. 187. Can you and will you produce them here for examination?

Same objection as before; and, furthermore, counsel for defendants states that he shall not pay any witness fees for the production of these books, as they are immaterial.

A. I cannot.

X Q. 188. Why not?

A. Because my children have obliterated them. I will not produce them without a subpœna.

X Q. 189. Were any bound-bosom shirts made by you while you were doing business in your wife's name?

A. There were.

X Q. 190. Did the books contain any record of the same?

A. I cannot say. What books?

X Q. 191. Any of the books used to keep the record of the business?

A. I presume there were charges against my customers for shirts bought of me as agent for my wife.

X Q. 192. Will you swear there ever was on those books any record showing that you made shirts like Defendants' Exhibit
835 "A" or with a binding on the edge of the bosom during that period—that is, showing how the shirts were made in that respect?

A. I will not.

Counsel for complainants requests the witness and the solicitor for the defendants to produce the books containing the records of the business of Helen A. Ford or the remnants of the same here for examination.

(Last question repeated as to the books containing the records of the business done in your own name from 1864 down and subsequently in the name of your brother, L. B. Ford.)

A. I will swear they do not. They are simply account books. The same thing applies to the Helen A. Ford books. They also are only account books.

X Q. 193. From 1864 down to 1880 did you keep any record, make any memorandum, or preserve any other evidence showing how you made shirts?

A. No, sir.

X Q. 194. Do you consider that the books stated to be in the possession of Smith & Clark are your property or subject to your order?

A. If in existence they are.

X Q. 195. Will you please send for them and produce them here for examination?

A. I will not.

X Q. 196. Why not?

A. As there is nothing contained therein appertaining to this case.

X Q. 197. Is it not usual for shirt manufacturers to keep some memorandum or record showing what style of shirts are ordered and made for their customers?

A. I do not think it is. I never kept such memorandums.

Recess for lunch at 1.15 till 2.15.

836 *After Recess.*

Cross-examination of witness resumed:

X Q. 198. Did you not keep and is it not customary for all shirt-makers to keep an order book in which their orders are set down?

A. It is, and I kept one containing measurements.

X Q. 199. And containing no directions as to style of shirts or how the orders was to be made up?

A. It does.

X Q. 200. Then I understand you have, or Smith & Clark have, your order book from 1864 down to the time the business went in your wife's name. Is that so?

A. I cannot say that they have.

X Q. 201. Where is it if they haven't got it?

A. I cannot say if they have not got it.

X Q. 202. Were all the shirts you made during that period made in that style?

A. What period?

Counsel states the period to be from 1864 down to the time business went in the name of wife of witness, and witness adds—

A. I cannot say that they were.

X Q. 203. What other style besides the style that used a binding did you make during that period?

A. The old-fashioned way of making bosom, as explained in my direct examination.

X Q. 204. About what amount of business did you do per month or week—that is, how many shirts did you average?

A. I cannot at present say.

X Q. 205. Say as near as you can.

A. One hundred dollars, more or less, a month; from twenty-five to one hundred dollars per month, representing from 10 to 35 shirts a month.

X Q. 206. What proportion of these shirts had binding on the bosom?

A. The greater proportion.

837 X Q. 207. Will you produce the order book or books for examination here of which you have personally spoken?

A. I do not know that I can.

X Q. 208. Will you if they are in existence?

A. I cannot say that I will.

Counsel for complainants requests the witness and counsel for defendants to produce the order book or books testified of by this witness for examination before the examiner herein before the examination of this witness is closed.

Counsel for defendants replies that these books are outside of the jurisdiction of this district, and that the examiner cannot issue a *subpœna duces* for the production of the same; that moreover they are not in the possession of this witness; that defendants propose to examine Myron E. Clarke as a witness on their behalf, his name having been set up in the answer, and that they will at that time produce his books if they can, and if their interests demand such production; that complainants' counsel can serve a *subpœna duces* upon the said clerk when he is produced for examination as a witness if he desires to.

Counsel for complainants states that having discovered that an order book was kept by this witness which should show the dates of manufacture of shirts made by him, he enters his objection to the testimony of this witness heretofore given as to the dates of manufacture of shirts testified to by him as not the best evidence and calls upon the defendants to produce the record of the transactions testified to as the best evidence of the date of manufacture. Subject to this objection complainants' counsel proceeds with examination of the witness.

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Defendants' counsel says that just as soon as the existence of these books is definitely and with certainty established, as can be best done by the examination of Myron E. Clarke, and if he can produce these books he will do so and, if need be, recall the witness now on the stand at a subsequent period.

X Q. 209. Can you now fix the date of the manufacture of any particular lot of shirts made by you on which the binding was used upon the bosom for any particular person and give the name of such person?

A. No, sir.

X Q. 210. Have you ever testified or given evidence under oath in any case prior to this examination; and, if so, in what case or cases?

A. No, sir.

X Q. 211. Do you know where Clarke got the "Manbert" shirt, Defendants' Exhibit "A"?

A. I do not.

X Q. 212. At the time of the conversation you had in the store of Andrews & O'Garry, at Troy, did you see one of the shirts which Mr. O'Garry said "were patented"?

A. I did not.

X Q. 213. You first ascertained from him the date of the patent of that shirt before you stated the date of your invention, did you not?

A. I never knew the date of the patent obtained by Geo. B. Cluett, Bro. & Co.

X Q. 214. Did not Mr. Garry give you the date?

A. No, sir.

X Q. 215. Did you say to Mr. Garry that the Cluett patent could not be sustained and give a reason why?

839 A. I did.

X Q. 216. And what was the reason?

A. Because I had made it a good many years before having ever heard that a patent was granted on such an invention or improvement.

X Q. 217. Had you ever seen the Cluett patent at that time?

A. I had not.

X Q. 218. When did you first see the Cluett patent?

A. The day that I was first called as a witness for defendants, a week ago to-morrow.

X Q. 219. Had you never examined that patent before that day?

A. No, sir.

X Q. 220. Had anybody explained the patent or the invention to you before that day?

A. No other explanation has ever been given me except that of Mr. Garry.

X Q. 221. What was that?

A. That the manner of making the shirt which I had on while being measured by Mr. Garry—he said it was patented; that shirt I had on was made like Def'ts' Exhibit "A."

X Q. 221½. When was it made, and by whom?

A. In 1880 or in 1881, and by either Messrs. Smith & Clark or Myron E. Clark, as successor to Smith & Clark.

X Q. 222. Did Mr. Garry have any of the Cluett shirts in his place?

A. If he had I never saw them, nor have I ever seen one.

X Q. 223. You don't know, then, whether your shirt is made like the Cluett shirt or not?

A. I do not, only so far as I've been told.

X Q. 224. What did you say to Mr. Garry after he said that shirt was patented and he couldn't make it?

A. I said I had made those shirts like the one I had on and like Defendants' Exhibit "A" a great many years and could prove it.

840 X Q. 225. You didn't say, then, that the patent could not be sustained, not having the date of the patent, not having seen the patent, and not having seen the shirt made according to the patent?

A. I did say that the patent could not be sustained.

X Q. 226. And you said this, as I understand you, before you had ever seen the patent, seen a shirt made under the patent, and before you knew the date of the patent. Is that so?

A. I did. From a conversation held with Mr. Garry, and so stated before he gave me to understand that it was patented, knowing that I had made the shirts as exhibited by defendants and marked Defendants' Exhibit "A" for a great many years without ever having

heard of the existence of such patent, I came to the conclusion that it could not be sustained.

X Q. 227. And your testimony as given in this case is based upon the same reasoning and statement, I suppose?

A. Yes, sir; together with the dates of my starting in business at Chatham, N. Y., together with the knowledge I possess in having made shirts like that exhibited by Defendants' Exhibit "A."

X Q. 238. Is your memory of dates always accurate?

A. I cannot say that it is.

X Q. 229. Is it not defective to some extent as to matters five or ten years old?

A. Technically speaking it may be.

X Q. 230. Well, what is the fact about it?

A. I cannot give any other answer but that given to the previous question, having never had it tested.

X Q. 231. Have you yourself perfect confidence in your memory of dates?

A. As to getting down to a particular day of the month on which occurred an incident ten or fifteen years ago, I should say not.

841 X Q. 232. As to matters occurring ten or fifteen years ago, have you confidence in your recollection as to the years when ordinary events and business transactions took place?

A. I have.

X Q. 233. Have you any children?

A. I suppose I have.

X Q. 234. How many?

A. Five of them.

X Q. 235. Can you give the dates of their births in order?

A. The elder was born July 21, 1864; the second, October 6, 1866; the third, May 10, 1869; the fourth, November 1st, 1878, and the fifth, February 5, 1880—no; hold on; 1880—yes; it is February 5, 1880.

X Q. 236. Is your father living?

A. No, sir.

X Q. 237. When did he die?

A. February 5, 1872.

X Q. 238. When did you buy your first horse?

A. July, 1873; I bought a pair of them.

X Q. 239. And you never owned a horse before that date?

A. Never.

X Q. 240. Had you been in the habit of driving a horse before that date?

A. I was.

X Q. 241. Where did you learn the shirt business?

A. Mr. Seymour Hutchinson or Hutchins, now deceased, gave me my first instructions. He was at that time, in 1857, with Union Adams, in this city.

X Q. 242. What was your business between 1857 and 1864 or 1865?

A. Dry-goods business.

X Q. 243. Where?

A. In New York city, with I. B. Chittenden & Co.; I was in the army two years and eight months; was deputy postmaster of Chatham a trifle over a year, and started business in Chatham August 29, 1863.

842 Redirect examination of the witness by Mr. RAEGENER:

R. D. Q. 244. From what period to what period did you manufacture shirts like Defendants' Exhibit "A," at Chatham?

A. 1864 to 1879.

R. D. Q. 245. Continuously?

A. Yes.

R. D. Q. 246. On December 2 I understand you to testify that Mr. Garry, in answer to your question, "Give me the date of this patent," gave you the date. On your cross-examination you appear to have testified differently. Can you reconcile these statements?

A. I have no recollection of having heard any such question as is propounded above read to me, so far as date of patent is concerned.

R. D. Q. 247. I now read your cross-answer 50 and repeat my former question.

Question objected to on the ground that it is improper on redirect, being in the nature of instruction to witness how to answer.

A. I cannot. I have no recollection of having asked him about the date of the patent. This occurred a long time ago, and he may have done so, but I have no present recollection of it.

R. D. Q. 248. How long did this interview between Mr. Wallerstein and yourself last at the time that you were introduced to him by Mr. Thomas?

A. From fifteen minutes to half an hour.

R. D. Q. 249. In what part of the hotel did it take place?

A. In the office proper.

R. D. Q. 250. Where was Mr. Thomas?

A. A part of the time in the office proper and part in the room adjoining.

R. D. Q. 251. At what time of the day?

A. Either between the hours of 12 and 1 p. m. or 6 and 7 p. m. I can't recollect which.

R. D. Q. 252. On what day of the month was it?

843 A. I cannot say.

R. D. Q. 253. What month?

A. September or October.

R. D. Q. 254. Have you any way of fixing the time more accurately?

A. I have not at present.

R. D. Q. 255. How can you fix the time if you have an opportunity of investigating?

A. By referring to my order book.

R. D. Q. 256. What will that show?

A. The dates of my sales made there, showing the time when I was there.

R. D. Q. 257. How often did you go to Troy during September or October, 1885?

A. I was there once each month.

R. D. Q. 258. At which one of these two trips was it that the interview with Wallerstein took place?

A. I cannot say which.

R. D. Q. 259. What sales do you refer to as enabling you to fix the time?

A. The sales made to Joseph Dugan, River street, Troy. I do not recollect exactly. I cannot recall any particular matter that will bring the date to my mind. I want to change my answer that my order book will bring it to my mind, for I don't know that that will do it for a certainty.

R. D. Q. 260. Did you ever have more than one interview with Mr. Wallerstein?

A. I do not think I did.

R. D. Q. 261. Was that interview with Mr. Wallerstein after you had had the interview with Mr. Mack?

A. It was.

R. D. Q. 262. And you have had no other dealings with or promises from the defendants herein except as testified to by you at the interview between you and Wallerstein, have you?

A. I have not.

R. D. Q. 263. Did you have any correspondence with Mack & Co.?

844 A. Not with my signature attached.

R. D. Q. 264. Did Mack & Co. write letters to you on September 1, 1885?

A. I think it was that month I received letters from them.

R. D. Q. 265. Have you got them?

A. I presume I have.

R. D. Q. 266. Did you answer these letters?

A. I am not obliged to tell.

R. D. Q. 267. Do you decline to say?

A. I do.

R. D. Q. 268. I now show you one letter dated Hudson, September 3, 1885, and the same is marked Defendants' Exhibit "B," for identification, J. A. S., Ex'r, December 8, 1885, and another letter dated Chatham, September 4, 1885, marked Defendants' Exhibit "C," December 8, 1885, J. A. S., Ex'r, for identification, and ask you whether you wrote these letters and sent them or caused them to be written and caused them to be sent to Mack & Co., of Albany?

A. I decline to answer.

Judge Coxe directs the witness to answer.

Question repeated.

A. Both Defendants' Exhibits "B" and "C" were written by me.

R. D. Q. 269. I now show you a paper marked Defendants' Exhibit "D," for identification, December 8, 1885, J. A. S., Ex'r, and ask you whether you wrote the same and sent it to Mack & Co.?

A. That is in my handwriting.

R. D. Q. 270. Did you ever have any conversation with George B. Cluett or any one of his firm of George B. Cluett Brother & Co. in relation to this patented shirt?

A. No, sir.

845 R. D. Q. 271. Did you ever have any conversation with George B. Cluett, Brother & Co. concerning your giving your testimony in a suit affecting their patent rights?

Question objected to, as also the previous question, on the ground that it is not proper redirect examination, no question having been put or no testimony having been given by the witness on cross-examination in relation to that matter, and the counsel for complainants requests the counsel for defendants to explain on the record the meaning of those questions.

In order to accommodate counsel for complainants, defendants' counsel withdraws the question.

Second cross-examination of witness:

X Q. 272. Have you given your testimony in this cause on the understanding on your part that you were performing your part of the contract, which would entitle you to receive $1,000?

A. I am swearing to the truth and nothing else.

X Q. 273. Is this testimony of yours that you have given in this cause a part of the consideration, as you understand it, for the sum of $1,000 to become due from the defendants to you eventually?

A. I should not voluntarily have given any testimony in this case unless compensated. I have been compelled by judges to here testify against my will and judgment. I can say yes or I can say no to the last question.

X Q. 274. If the thousand dollars had been put in bank, according to your understanding, you would not have refused to answer the questions?

A. I would not.

X Q. 275. Because it was not so put in bank you refused, did you?

A. I did.

846 X Q. 276. Now, having given your testimony under the directions of the court in regard to the matters spoken of at the time of the agreement, in the event that the patent in this case is broken, as you call it, or a compromise is made, you expect, as I understand you, to call upon the defendants for the payment to you of the $1,000; is that so?

A. I shall call upon the gentleman introduced to me by Mr. Thomas, of Troy, N. Y. I cannot now recall his name. He is the one referred to as Wallerstein. I mean that I shall call upon him for the payment of the $1,000.

X Q. 277. Is the arrangement with Mack & Co. still standing as to the payment of the $1,000 by them?

A. There is no valid arrangement between Messrs. Mack & Co. and myself at present.

X Q. 278. Did they not accept your terms at the time that you had the conversation in Albany?

A. They did not.

X Q. 279. What does that arrangement depend upon, then, to make it valid?

A. Their signature attached to an article of agreement drawn by me.

X Q. 280. You have, then, submitted to them articles of agreement for their signature to that effect; is that so?

A. I have.

X Q. 281. What is their reply to it?

A. I have it not in my possession, but the substance is that they ask for further time and I refuse to grant it.

X Q. 282. This would leave additional one thousand dollars to that due from the defendants, making two thousand dollars in all which you may become entitled to?

A. No, sir.

X Q. 283. How, then?

A. I expect nothing from them whatever; they failed to sign my agreement.

847 X Q. 284. Do you know the complainants in this cause or either of them?

A. I do not.

X Q. 285. Have you ever had any conversation with them in regard to their shirt patent or this case?

A. I do not know them nor have I ever met them, and they have nothing to do with suggesting my refusal to answer questions in this case, and I do not think they know me, unless some one has mentioned my name to them in Troy.

Counsel for complainants suspends the examination for the production of the books as requested, and in order that he may have an opportunity to read over the testimony of the witness, and the hour for adjourning being already some time past, and requests an adjournment till Dec. 9th, at 11 o'clock.

Defendants' counsel says that the complainants' counsel stated but a few moments ago that he believed he was through with the examination of this witness, or words to that effect. Moreover, this is a recross-examination, the cross-examination having been closed; and, moreover, counsel for defendants states that in accordance with notice and consent he will take testimony in Philadelphia to-morrow.

H. M. FORD.

Adjourned to Monday, Dec. 14th, at 2 p. m.

Counsel for complainants objects to adjournment beyond Dec. 9th, at 11 a. m.

MONDAY, *December 14th*, 1885.

848 At 2.35 Jas. A. Skilton, Esq., counsel for complainants, not appearing or sending any explanation for his failure to be present, David Tim and Louis C. Raegener, of counsel for defendants, request that the witness, Hiram B. Ford, now present, be required to sign his deposition and depart.

H. M. FORD.

In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on part of defendants, under and pursuant of notice and consent (hereunto annexed), before John W. Barron, a notary public, at Philadelphia, State of Pennsylvania, at his office, No. 209 South Sixth street, in said city, this ninth day of December, A. D. 1885, at 11 o'clock a. m.

Present: James A. Skilton, Esq., of counsel for complainants, and David Tim and Louis C. Raegener, Esqs., of counsel for defendants.

JACOB BLOCH, a witness produced on the part of the defendants, being duly sworn, deposes and says:

849 Q. 1. Please state your name, age, residence, and occupation.

A. Jacob Bloch; age, 45 years; I reside at No. 955 North 6th street; shirt manufacturer.

Q. 2. Where do you conduct business in this city?

A. No. 18 North Fourth street.

Q. 3. How long have you been engaged, either as employer or employee, in the shirt business and since when?

A. Since the fall of 1862.

Q. 4. Please describe to us the kind of shirts with bosoms, having reference particularly to the style of bosom and method of attachment to the shirt body, that you made prior to 1875.

A. Of course we have made various styles of shirts, and bosoms attached in different manner. I do remember that we have made a shirt, especially in woolens, that I can remember as far back as 1865 or '66, that the front of the shirt or bosom, as you may call, was first bound and then stitched at one side of the binding—stitched onto the shirt.

Q. 5. Please tell us how many lines of stitches, if any, were visible upon the outer side of the binding on the bosom after the bosom was stitched onto the shirt body.

A. We have made some where there was but one row visible and others with two.

Q. 6. Please describe how the binding was put on the bosom.

A. The binding was stitched on, commencing at one end and running down to the bottom and up the other end, making a full bound around. After that the binding is turned and caught and stitched onto the body of the shirt by a separate row of stitching.

Q. 7. Through what did the separate row of stitching go?

A. Through the bosom fastened onto the body.

Q. 8. What part of the bosom?

A. At the edge of the bosom.

850 Q. 9. What was at the edge of the bosom?

A. The binding.

Q. 10. Through what part of the bosom did the separate line of stitches go?

A. The binding.

Q. 11. How long did you continue to make this kind of shirt?

A. We made it for several years; I can't exactly remember.

Q. 12. Did you ever make a white shirt during this period, prior to 1870?

A. I don't exactly know whether we made white shirts in that manner, but I do remember that we made them in percales and fancy matters—that is, Spanish linen and all colors.

Q. 13. Please look at Defendants' Exhibit "A," December 2d, 1883, and tell us whether the same resembles or differs from the woolen or fancy-colored shirts made by you prior to 1870—in what respect.

A. This is about the same thing that I have described to you.

Q. 14. To what part of Defendants' Exhibit "A" had you reference when you gave your last answer?

A. As regarding the manner that this bosom is stitched onto the shirt body.

Q. 15. To whom did you sell the woolen shirts and fancy-colored shirts like Defendants' Exhibit "A" and described in your former answer?

A. He sold them wholesale; I could not say to whom.

JACOB BLOCH.

Direct examination closed.

Mr. Bloch's cross-examination taken next day.

JOHN STEITZ, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

851 A. John Steitz; 40 years of age; shirt-cutter, 1220 Randolph street, Philadelphia. I am employed with L. & S. Sternberger & Co., 502 Market street, Philadelphia.

Q. 2. How long have you been (in the) a shirt-cutter?

A. Twenty-one years; since I arrived in this country.

Q. 3. Please describe the kind of shirt which you cut when you commenced to work.

A. When I commenced to work at that time they were all open-front shirts. We didn't know anything about open backs.

Q. 4. When did you commence making open-back shirts?

A. About sixteen years ago.

Q. 5. Describe them.

A. Those shirts at that time was plain open-back shirts; there wasn't any shirts the way we cut them now; they were all straight bosoms, not shield bosoms.

Q. 6. When did you commence making shield-bosom shirts?
A. About fourteen or fifteen years —.
Q. 7. For whom were you making at the time?
A. Walter & Hotten.
Q. 8. Where?
A. Philadelphia, on the corner of Bank and Chestnut streets.
Q. 9. When did you work for Thalheimer & Hirsch?
A. About fifteen or sixteen years ago.
Q. 10. Where was that place of business?
A. No. 14 Bank street, Philadelphia.
Q. 11. What kind of shirt did you cut while there?
A. I cut different kinds of shirts; we cut white and flannel shirts and calico.
Q. 12. Describe in detail the parts of flannel shirts and percale shirts cut by you while there.
852 A. Some were regular stock shirt with a shield bosom.
Q. 13. How was the shield bosom set upon the body of the shirt?
A. They were laid on the front.
Q. 14. In what way were they attached to the shirt body?
A. Some were stitched on plain and some corded.
Q. 15. When stitched on plain through what part of the bosom did the stitch go?
A. Through the edge of the bosom, all around.
Q. 16. At this time, while you were with Thalheimer & Hirsch cutting shirts, as previously described, did you cut any bias strips? If so, for what purpose, and what was done with these strips?
A. I cut such strips to bind the bosom with.
Q. 17. How many of these shield-bosom shirts with the binding around them did you cut while with Thalheimer & Hirsch?
A. That is a hard thing to answer; a good many lots.
Q. 18. How many a day?
A. Forty-eight or fifty dozen.

Direct examination closed.

Witness' cross-examination:

X Q. 19. Have you now in your possession or can you produce any shirts like what you have described, in which a binding was used, that were made more than ten years ago?
A. No, sir.
X Q. 20. Have you any in your possession now, made within ten years, like them?
A. No, sir.
X Q. 21. Can you describe how the binding was secured to the bosom and how the bosom was secured to the shirt, fully?
A. The binding was set around the bosom—was stitched in and around the bosom—the bosom was stitched on the front of the body.
853 X Q. 22. Is that all the explanation or description you can give to it?

A. That is about all I know.

X Q. 23. Will you please make a sketch showing how this was done?

The witness makes a sketch showing bosom round at the bottom, having an irregular line drawn around the edge except at the top and neck, which he says represents the binding.

X Q. 24. Please give a sectional sketch or diagram of the shirt shown in sketch.

He draws a second figure with the shirt body added to what is shown in the first.

X Q. 25. Question repeated.

A. I don't understand what sectional and view mean.

X Q. 26. Question repeated.

The counsel explains to the witness that what he wants is a representation in sectional view, showing in the first place the position occupied by the shirt body, then the position occupied by the bosom upon the body, then the position occupied by the binding both in relation to the body and to the bosom.

A. That time I didn't have anything to do with making up the shirt, because I had nothing to do — making up their shirts.

X Q. 27. Then, as I understand, you are unable to explain or make sketch showing how the shirt body, bosom, and binding were arranged in the completed shirt, of which you cut out the several parts, as previously testified; is that so?

A. Yes; that is so.

X Q. 28. Why are you unable to do so?

A. Because I have not worked where the shirts were made together (I mean put together).

X Q. 27. Does this last answer apply to the woolen shirts, the white shirts, and also the percale and calico, or the fancy shirts which you have testified on your direct examination—that is, to all of them?

854 A. That is so; at that time—I mean fifteen years ago.

X Q. 30. You were asked in cross-question "27" as follows: "Then, as I understand you, you were unable to explain or make a sketch showing how the shirt body, bosom, and binding were arranged in the completed shirt of which you cut out the several parts, as previously testified; to which you replied, "That is so." Now what I desire to know is whether that answer refers to all the shirts or the different kinds of shirts as to which you testified on your direct examination, stating your business was to cut such shirts?

A. Yes.

X Q. 31. And you are unable to explain in words or by diagram or sketch how these three parts of the shirt were arranged in the completed shirt, the several parts of which were cut by you while in the employ of Thalheimer & Hirsch and other employers, are you?

A. Because it is so long back I can't remember.

X Q. 32. Do you know of any one who wore the shirts of which you testified in your direct examination?

A. No, sir.

X Q. 33. As I understand you, your work consisted simply in cutting out of the parts by pattern, after which they were passed on to others to be made, and you had nothing to do with the making and cannot now recall it sufficiently to describe or represent it because it was so long ago?

A. That is so.

X Q. 34. Where and when did you first see a shield bosom in shirts?

A. Fifteen or sixteen years ago, at Hirsch & Thalheimer or Waller & Hotten.

X Q. 35. How are you able to fix it at fifteen or sixteen years ago?

853 A. I am now ten or eleven years with L. & S. Sternberger, and before I was there I was with Thalheimer & Hirsch.

X Q. 36. Can you give the exact date when you went to work for L. & S. Sternberger?

A. I don't know the day — the month; it was about eleven years ago; it was 1874 or 1875.

X Q. 37. What time of the year was it—what season?

A. I don't know whether it was spring—I guess it was in spring and cannot tell the month.

X Q. 38. Was it in warm weather or cold weather?

A. It was not cold nor warm.

X Q. 39. Are you certain it was not in 1876?

A. No, sir; I say it was not in 1876 when I came to L. & S. Sternberger.

X Q. 40. You said in answer to question "6" that you guessed it was fourteen or fifteen years ago. Have you any memorandum or written record by which you can fix it or any better way of fixing it than by guessing at it?

A. No, sir.

X Q. 41. The woolen shirts you spoke of in your direct testimony, were they open in front?

A. Yes, sir.

X Q. 42. How did they open in front?

A. Opened on the side.

X Q. 43. Under the shield or through it, which?

A. Under the shield; some are opened on the side.

X Q. 44. That is, one side of the shield was free and not secured to the shirt body by stitches, but by buttons or some such device, I suppose. Is that so?

A. Yes, sir; that is so.

X Q. 45. They are sort of fireman's—what used to be known as such, I suppose?

A. Yes, sir.

The two sketches made by the witness in blue pencil are attached to and made a part of the record and identified by the notary as Steitz sketches 1 and 2.

856 Redirect examination by Mr. RAEGENER:

R. D. Q. 46. Did you ever see the percale shirts in the store?

A. Yes, sir.

R. D. Q. 47. After they were made up?

A. Yes, sir.

R. D. Q. 48. Did you cut the bosom, binding, and shirt body constituting these percale shirts, which you have testified to that you saw in the store?

A. Yes, sir.

R. D. Q. 49. On these percale shirts last referred to where was the bias strip?

A. Bosoms, collars, and cuffs.

R. D. Q. 50. What part of bosom and for what purpose?

A. To bound around the bosom and cuffs and collars.

Recross-examination by Mr. SKILTON:

R. D. X Q. 51. In the answers you gave to the questions "27," "28," "29," "30," "and 31" you included or referred to the shirts which you saw in the store and the percale shirts mentioned in your redirect examination, did you not?

A. Yes, sir; the same shirts; the same one.

R. D. X Q. 52. Are you able to make a sketch or diagram showing the different parts of the shirts mentioned in your redirect examination in sectional view, so as to to show the exact relations of the several parts and how they were secured or stitched together? If you are able, please make such sketches or diagrams as may be necessary for the purpose.

A. No, sir; I am not able to make that.

R. D. X Q. 53. Please explain in words how these several parts were disposed in reference to each other as they would appear in sectional views, if you are able to do so.

A. I am not able to do so.

857 R. D. X Q. 54. Then, as I understand, all you are able to testify to is that your impression now is that the shirts cut by you when in the employ of Thalheimer & Hirsch had shield bosoms and binding on the bosoms? Is that so?

A. Yes, sir.

Re-redirect examination:

Re-R. D. Q. 55. Referring to the last question and answer, how was the bosom attached to the shirt?

A. Got stitched onto the front.

Re-R. D. Q. 56. Where were you born and what language do you speak at home?

A. In Germany I was born and speak German at home with my family.

Re-recross-examination by Mr. SKILTON:

Re-re X Q. 57. Do you understand English well?

A. I understand it not very well.

JOHN STEITZ.

Sworn to and subscribed before me this 9th day of December, 1885.

[SEAL.] JOHN W. BARRON,
Notary Public.

Adjourned to meet at 3.30 p. m.

Met.

Present: James A. Skilton, Esq., and David Tim and Louis C. Raegener, Esq., and witness.

Time, 3.45

DAVID WALLACE, a witness produced on the part of defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is David Wallace; I am 56 years of age; reside at No. 2906 Park avenue, Philadelphia; by occupation, a laundryman; employed for 14 years past next March with L. & S. Sternberger, of Philadelphia.

858 Q. 2. Where were you employed before you came to L. & S. Sternberger's?

A. I did work on my own account for others, among whom were Thalheimer & Hirsch.

Q. 3. When did you commence doing work for Thalheimer & Hirsch?

A. About seventeen years ago.

Q. 4. What kind of work?

A. White shirts, laundried shirts.

Q. 5. Describe them.

A. White shirts with pleats on bosom.

Q. 6. Open?

A. Open in front; one year later, percale shirts with shield bosom bound and stitched down to the shirt body—that is, I laundried the latter kind of shirts one year later; the percale shirts were open in the back.

Q. 7. How many of the shield-shape, percale bound-bosom, open-back shirts did you launder sixteen years ago?

A. From ten and twenty dozen lots per week.

Q. 8. How were these bound bosoms attached to the shirt body?

A. They were attached by stitch through the binding.

Q. 9. How many rows of stitching appeared on the binding upon these bound bosoms after they were attached to the shirt body?

A. One row on each side of the binding, as far as my memory serves.

Q. 10. All away around the entire bosom?

A. Leading from collar band to tab, both sides,

Q. 11. Did you ever see these shirts laundried by you sold or exposed for sale sixteen years ago?

A. Yes, sir.

Q. 12. Please look at Defendants' Exhibit "A" and state whether the bosom upon this exhibit is attached in a similar or dissimilar

manner to the bound-bosom shirts laundried by you sixteen years ago for Thalheimer & Hirsch.

859 A. Similar to this exhibit.

Q. 13. Do you know John Steitz and Jacob Bloch; if so, where and when did — first become acquainted with them?

A. Yes; I do. I got acquainted with them in Thalheimer & Hirsch's seventeen years ago.

Q. 14. Which of the two gentlemen named did you know first?

A. Jacob Bloch.

Cross-examination by Mr. SKILTON:

Q. 15. Who first spoke to you about this suit?

A. It was — gentleman who came in some time ago into the firm of L. & S. Steinberger's. I don't remember the name. It was one of the defendants and Mr. D. Tim, the soliciter of record for the defendants.

Q. 16. When was this?

A. About three months ago, as far as my memory can serve.

Q. 17. Your memory doesn't always serve you about the dates of events with accuracy, does it?

A. No; except special attention is called to it.

Q. 18. How long before this interview of three months' ago had your attention been called to these events of years ago?

A. At no time before during the fifteen years.

Q. 19. Have you examined any books or memorandums relating to these matters here testified of since your interview of three months ago with the defendants just spoken of?

A. No, sir.

Q. 20. How long since you have seen samples of shirts made in the manner described in your direct testimony herein?

A. Two weeks ago.

Q. 21. When were those shirts made that you saw two weeks ago?

A. The shirts that I described that we were making fifteen

860 years or sixteen years ago we are making now.

Q. 22. What part of the bosom was bound and stitched down, as stated in your answer to question "6?"

The pick——

A. The stitching was a quarter of an inch wide on each side of the bosom.

Q. 23. How near the edge of the bosom?

A. About one-sixteenth.

Q. 24. What was the bosom bound with?

A. With linen stripes.

Q. 25. What do you mean by linen stripes?

A. I mean binding cut to suit the stripe of the bosom.

Q. 26. Was the binding on the bosom itself?

A. It was on the bosom—not on the body of the shirt.

Q. 27. Were the linen stripes plain or colored?

A. Colored; percale goods.

Q. 28. The bosom itself was plain white goods?

A. No; it was percale—colored.

Q. 29. What was the stripe put on for?

A. To ornament the bosom—to hold the bosom and body together.

Q. 30. How was this binding formed?

A. Formed by being cut in stripes. It was laid right on the outer side of the bosom and stitched through the same onto the body.

Q. 31. Were the stripes flat?

A. Half rounding in circle.

Q. 31. Was it folded; and, if so, how?

A. Yes; on the outer edges—folded in under.

Q. 32. The binding on those shirts did not lap over nor embrace the edge, I suppose?

A. No, sir.

Q. 33. Nor did it go under the edge of the bosom?

A. No, sir; it is just laid on.

861 Q. 34. The primary object of the stitching was to secure the stripe to the face of the bosom, I suppose?

A. Yes.

Q. 35. It had no other effect, I suppose—that is, the stitching through the stripe in holding the bosom and shirt together—than what it would have been necessary when used to secure the strips on the face of the bosom?

A. Yes; that is right.

Q. 36. Was the binding attached to the bosom alone before it was secured to the shirt or afterwards?

A. At the same time.

Q. 37. How was the scoring of the binding done—on one or both edges?

A. On the inner edge of the seam.

Q. 38. In answer to question "12" you say that "the bound-bosom shirts laundried by you sixteen years ago were attached in a similar manner to Defendants' Exhibit 'A.'" You have elsewhere stated that the stripes were laid on the face of the bosom only, and an inspection shows that in Exhibit "A" the binding is lapped over and under the edge of the bosom and upon the shirt body, with other difference. How do you reconcile these differences?

Exhibit "A" submitted to the witness.

A. When they were laid on the bosom I told you they were done at the same time as the body was sewed to the bosom.

Q. 39. How does that reconcile the contradictory statements referred to in the previous question; and inspection of Defendant's Exhibit "A" shows that the binding cannot be attached at the same time that the bosom is secured to the body?

A. The statements cannot be reconciled. I was in error in saying that I laundried shirts like Exhibit "A." I don't wish to be understood as saying that the binding on the shirts I laundried went under the bosom.

862 Q. 40. Then your answer to question 12 is not true, is it?

A. It is not true.

Q. 41. The stripes you have just been speaking of were put upon bosoms of what shape?

A. A shield shape.

Q. 42. Have you testified that the same stripes or binding were seen by you fifteen or sixteen years ago on any other than the shield-shaped bosom?

A. No other shape. I have not.

Q. 43. What was the shape of the open-front shirts referred to in your direct?

A. Square.

Q. 44. Did they have binding of any kind?

A. No kind.

Q. 44. How many layers were in the shield-shaped bosoms?

A. Three-ply, I think.

Q. 45. How were the edges of the several plies fastened to each other independently of the two lines of stitches through the stripes?

A. I can't tell.

Q. 46. How were the raw edges of these plies disposed?

A. They were turned in towards the centre of the bosom and beyond the two lines of stitches through the binding.

Q. 47. As I understand, you can produce shirts of recent make precisely like those described by you in this testimony, whereon the stripes were used on the faces of the bosom?

A. Yes. Either I or Mr. Sam. Sternberger can.

863 Complainants' counsel requests the witness to produce such a shirt.

DAVID WALLACE.

Subscribed to and sworn to before me this 9th day of December, 1885.

[SEAL.] JOHN W. BAUM,
Notary Public.

Adjourned to December 10th, same place, at 9.30 a. m.

Met Thursday, December 10th, 1885.

Present: James A. Skilton, Esq., and Louis C. Raegener, Esq., and witness, Jacob Bloch.

Cross-examination by Mr. SKILTON as to JACOB BLOCH:

Q. 1. In answer to question "5," you mention a shirt which you say was made specially in woolens that had a front or bosom which was first bound and then stitched at one side of the binding onto the shirt, and that such shirts were made prior to 1875. Did you make or know of shirts prior to 1875, other than woolen, that were made precisely in the manner described in that answer—that is to say, shirts that were made in cotton or white goods, but otherwise like the woolen shirts?

A. Yes, sir; I do; yes, we have made shirts in color and white that the bosom was stitched on in the same manner as on the woolen shirts.

Q. 2. Please state fully what that manner was.

A. Taken a bias strip of goods, bound the bosom at one end, turn the bias piece over and stitch it down on the body of the shirt.

Q. 3. What do you mean by binding the bosom at one end?

864 A. I mean by taking the bias strip, starting at one end of the bosom and going clear around to the other end, and after that is done the bosom is stitched on with another row of stitching to the body of the shirt.

Q. 4. Please take some paper, cut out representations of the parts just described, then fold and adjust the same and secure them together with pins in such a way as to illustrate the method of securing the bosom to the shirt that you have just described.

A. I have done so, making an exhibit representing the front of a shirt—a bosom thereon, a binding upon the edge of the bosom, and upon the binding at one side of the bosom two lines of stitches, the inner one showing the line of stitches which secures the binding on the bosom and the outer one showing the line of stitches which secures the bound bosom to the front of the shirt.

Q. 5. Are the three parts represented in this model correct representations of the correspondent parts of the shirts made or seen by you prior to 1875, mentioned in your second direct answer?

A. Yes, sir; as near as can be given in paper.

Q. 6. When did you first see or make cotton or linen shirts like the model—the paper model just made?

A. The first in cotton goods or linen that I remember of was either 1867 or 1868.

Q. 7. As I understand you, the woolen shirts made as far back as 1865 or 1866, as stated in answer "four," were made like this paper model. Is that so?

A. Yes, sir; made on the same principle.

Q. 8. Were the several parts arranged and secured together in the woolen shirts referred to in the same manner as shown in this paper model? I mean precisely; and if there were any differences, state what they were.

A. Precisely the same.

865 Q. 9. Did the two lines of stitches in the shirts represented by the paper model extends from the top of the bosom on one side all away around to the top of the bosom on the opposite side?

A. Yes, sir.

The counsel for complainants requests the witness to put his name on the several parts of the paper model for purposes of identification, and requests the notary to mark it for identification as paper model.

Q. 10. Were these woolen and cotton and linen shirts represented by the paper model and referred to in your direct testimony in answer "four" open in the back, and were the bosoms shield-shaped?

A. Some were open in the back and some open in the front; woolen all opened in the front and cotton and linen opened both ways.

Q. 11. Where the opening was on the front how was it made and where located?

A. Direct in the centre.

Q. 12. Through the bosom or only under the bosom?

A. Through the bosom centre, as in the ordinary open-front laundried shirt.

Q. 13. Did any of these shirts open in the front in any other way than as described in last answer?

A. The woolen ones; some of them opened on the side; the bosom was loose or not sewed down on one side, but secured on that side by buttons, the shirt body itself opening in the centre under the bosom.

Q. 14. In other cases, as I understand you, the woolen shirts were made to open in the centre through the shirt body, and also through the shirt bosom. Is that so?

A. Yes; down to the edge of the binding.

Q. 15. How was it with the cotton and linen shirts in this respect?

A. Opened the same way.

866 Q. 14. Are you certain that shirts of the description just made were all made and sold by you prior to 1868?

A. Yes, sir.

Q. 17. Have you now in your possession any samples of these shirts made as early as 1868?

A. No, sir.

Q. 18. Have you any of them that were made prior to 1870?

A. No, sir.

Q. 19. Have you any that were made prior to 1875?

A. No, sir.

Q. 20. What is the date of the oldest shirt made, as described and as shown in the paper model, which you can produce or know of now in existence?

A. I haven't one in my house; I haven't made one for four or five years.

Q. 21. Have you made any shirts on the plan of the paper model made by you since 1875?

A. I did; I have.

Q. 22. As I understand you, in all these shirts the bosom was laid on the body and not inserted, a place being previously cut out of the body for the bosom?

A. No, sir; they were set on.

Q. 23. How many thicknesses of material were used in the making of the bosoms of these shirts and secured by the binding on the edge of the bosom, as shown in the paper model; was there one or more?

A. There was two, and in some in some instances three.

Q. 24. Not less than two in any case?

A. Not less than two.

Q. 25. Then the paper model is not correct in this respect, as I understand you, since it represents the bosom as having but one thickness or layer?

A. No; it is merely an outline.

Q. 26. Is the model in other respects a correct representation, except as explained in your previous answer?

867 A. As near as I am able to get it.

Q. 27. It is correct, then, to the best of your knowledge, with the exception last mentioned?

A. Yes.

Q. 28. For whom were these cotton and linen and woolen shirts made?

A. Thalheimer and Hirsh, for whom John Steitz was a cutter, and who cut some of these shirts at that time.

Q. 29. Did he, Steitz, cut the strips for any of these shirts of which you have here testified?

A. If he cut the shirts he had to cut the stripes.

Q. 30. And, as I understand, you made the shirts up?

A. No, sir; I did not. I was at the time a salesman in the employ of Thalheimer & Hirsch and not a manufacturer. I assisted in the manufacturing. All the shirts of which I have been testifying were made by Thalheimer & Hirsch. I succeeded Thalheimer & Hirsch in 1876; they retired.

Q. 31. Between 1865 or '66 were you continuously in their employ?

A. Yes, sir.

Q. 32. Did Thalheimer & Hirsch during the period between 1865 and 1876 make any other style of shirts in which a binding was used in connection with the body and bosom of the shirt beside those which you testified to this morning?

A. Yes, sir; a hundred different kinds.

Q. 33. Please describe and represent by paper model any other styles made by Thalheimer & Hirsch in which the binding was applied to the bosom and the bosom to the body of the shirt, if any they were, or in which a binding is used in connection with the bosom and body of the shirt.

A. Yes; it was; but I cannot describe it.

Q. 34. In the numerous styles referred to in the last two answers was the binding turned over and under the edge of the bosom?

A. On some of them it was.

868 Q. 35. On others how was it?

A. I couldn't remember. We made them in hundreds of different shapes.

Q. 36. How many rows of stitching were used to secure the bosom to the body in these different styles?

A. Those made like model had the same amount of stitching as represented on these.

Q. 37. How about the others?

A. Some had two, some had three, just according to the additional amount of work you would put on the shirt.

Q. 38. Did any of them have less than two?

A. I guess some had but one.

Q. 39. Did this one line of stitches secure the binding to the bosom and the bosom to the shirt body or how was that done?

A. The bosom had one row, and it required another one to go on the body.

Q. 40. Then there were two instead of one row of stitching?

A. It requires two rows, one to bind the bosom and the other to fasten it to the shirt.

Q. 41. Where was the second line of stitches located?

A. On the outer edge of the binding.

Q. 42. Then both these rows of stitching were visible in the shirts made between 1865 and 1876?

A. On some, and some only one row was visible. In that case there was another row invisible under the binding. The second is through the loose edge of the binding and the body underneath the edge of the bosom, the other edge being first secured to the bosom by the row of stitches which is visible when the shirt is complete.

Q. 43. Were the several layers of the bosoms in these shirts secured together by stitches before the binding was put on the bosom and before the bosom was fastened to the shirt?

A. Some of them were.

869 Q. 44. Was that the first step in the process?

A. I don't know; but I remember bound bosoms since ever I have been in the business, over twenty years.

Q. 45. Were any white shirts made by Thalheimer & Hirsch between 1865 and 1876 which had the binding on the bosom and the bosom secured on the shirt body in the manner shown in the model or otherwise explained in your testimony this morning or in your direct testimony yesterday?

A. No, sir; we only made percale shirts.

Q. 46. How many shirts of the different styles mentioned by you, in which the binding was used, as described, in connection with the bosom, were made by Thalheimer & Hirsch between 1865 and 1876?

A. I suppose there were hundreds of dozens. I couldn't say how many. There were large numbers of them.

Q. 47. On these shirts, when the opening was at the front through the centre of the bosom in the usual manner, were the bosoms laid on the shirt body or were the bosoms inserted in the body, a place being cut out for the same?

A. I don't hardly remember that. I think we made them both ways.

Q. 48. When you inserted the bosom, please describe how the binding was applied, how the several layers of the bosom were secured to the shirt body, and what folds, if any, were made on the edges of the bosom and on the edges of the body when the body was cut out to receive the bosom.

A. It was done by stitching the binding onto the bosom and the binding turned over invisible, catching the body of the shirt.

Q. 49. The body of the shirt, then, as I understand you, was not secured to the bosom directly, but to the binding, which had been previously secured to the bosom. Is that correct?

870 A. The bosom was fastened by the binding to the body of the shirt, the edges of the opening in the body being turned in between the under side of the bosom and the under edge of the

binding, and secured in that position by a line of stitches passing through first the body, next the binding, and through no other layers.

Q. 50. As I understand you, in the paper model the inside line of stitches, shown in pencil, passes through the binding and through the bosom between the two edges of the binding only, while the line of stitches on the outer edge passes through the binding on the bosom and also the body of the shirt?

A. Yes.

Q. 51. The line of stitches, then, where the bosom is inserted, which secures the bosom in or to the shirt body, in this case does not show on the bosom front?

A. It does not. We did not make many in that way. The majority of them was laid on, as the finish could not be made as well.

JACOB BLOCH.

Sworn and subscribed before me this 10th day of December, A. D. 1885.

[SEAL.] JOHN W. BAUM,
Notary Public.

871 ALEXANDER SINZHEIMER, produced and called on behalf of defendants, being duly sworn, says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Alexander Sinzheimer; 41 years of age, and I am manager for Hagedorn & Newman, shirt manufacturers, at 212 to 224 Carter alley, Philadelphia. I reside — 456 Franklin streeet, Philadelphia.

Q. 2. Were you ever engaged in the manufacture of shirt bosoms?

A. Yes, sir.

Q. 3. When and what kind of shirt bosoms?

A. From 1864 to 1876, in Philadelphia. I manufactured all kinds of shirt fronts for the trade, among them bound-bosom shirt fronts, both percales and white. I did not manufacture woolen shirts. I manufactured these bound-bosom shirt fronts before 1872, probably in the years 1870 and 1871. I made them mainly in two ways. One way was setting on the bias strip of goods on the edge of the bosom and turning it over and stitching it down again, making two rows of stitching through the binding and the bosom; the other way by binding the shirt front with the binder, making only one stitch through the binding and bosom. The bosoms I made for manufacturers, who furnished the material to me. The most that I made were for M. Rosenbach & Co., at that time of 3rd street, Philadelphia. I made hundreds of dozens of these bound bosoms. Some white shirt fronts were bound with colored biased percale strips. There were also calico bosoms bound with strips of other patterns than the material constituting the bosom.

Q. 4. How did you fix the time you made these bound bosoms?

A. I took a young man, Jacob Loeber, just arrived from
872 Germany, in the beginning of 1872, and remember from that fact that we had made them and were making them about and before that time.

Q. 5. Did you ever see these bound bosoms made by you in 1872 and before that time attached to the shirt body? And, if so, please describe their appearance.

A. I saw them a great many times, at M. Rosenbach & Co.'s, where I used to go in and out daily. The bound bosoms were set on the body of the shirt by stitching the edges of the bound bosom down to the body of the shirt.

Q. 6. Please look at Def'ts' Exhibit A and tell us whether it resembles or differs from the shirts seen by you at the store of Rosenbach & Co.

A. It differs in this, that the binding was wider and the shape of the bosom fuller at the bottom; in other respects it was made the same. The style of bosom was different also.

Q. 7. I understood you to say that from 1864 to 1876 you manufactured only shirt fronts for parties who furnished you with material and who completed the shirt by putting bosom and body together?

A. Yes, sir; but I sold a few shirt fronts on my own account.

Direct examination closed.

Cross-examination:

X Q. 8. Were the fronts you sold bound?

A. No, sir.

X Q. 9. Did you see these that you sold secured to the shirt fronts?

A. No.

X Q. 10. Do you know how it was done?

A. Yes. If they are bosoms to be set into the body of the shirt, the body of the shirts where cut out is pushed between the lining of the bosom and the linen and then stitched around; it sometimes, also, is first stitched onto the lining of the bosom and again
873 stitched on top through linen, bosom, body, and lining of bosom. When set onto the body of the shirt the bosom is simply turned in and stitched on. This answer refers only to unbound bosoms and shirts.

X Q. 11. Now as to the bound bosoms, were they intended to be set on or set in?

A. To be set on only—that is, those that I made—because you cannot neatly "set in" a round bound bosom into a shirt.

X Q. 12. How many lines of stitches were there in the completed bosom, binding, and shirt?

A. Sometimes two and sometimes three. When the binding is set on by the binder it will need but two lines of stitches; when binding is put on with two rows of stitches, as before described, it will need at least three.

X Q. 13. Please make a sketch showing the bosom binding and

shirt body in section, indicating the positions of the several lines of stitching, where there are two rows in the binding.

A. I have done so; making 1, 2, 3, and 4 figures, showing the steps of manufacture in their order and numbering the several stitches in the order in which they are inserted. The sketch is marked Alexander Sinzheimer's Sketch, Dec. 10, '85, for identification.

X Q. 14. Where one row of stitches is used, please make such a sketch.

A. I have done so, and called it figures 5 and 6. Fig. 5 represents the position when first stitch is made; Fig. 6 when sewed on the body of the shirt. The letter "A" is the biased binding, "B" the top layer of the bosom, "C" the lining or second layer, and "D" the shirt body. In Fig. 5 the biased strip is generally put on with the binder; in all other cases shown, Figs. 1, 2, 3, and 4, the strip is not put on with the binder. This sketch is also marked, for identification, Alexander Sinzheimer's Sketch, Dec. 10, 1885.

X Q. 15. At small "*a*," Figs. 2, 5, and 6, the edge of the biased strip is the free edge?

874 A. Yes; but I don't see what bearing it has.

X Q. 16. Were all these bound shirt fronts secured to the shirt body by Rosenbach & Co.?

A. I don't know.

X Q. 17. Do you know whether they were made to be attached in all cases to the shirt body?

A. Yes, sir; that is my impression.

X Q. 18. How wide was this binding?

A. The strip was cut $\frac{5}{8}$ to one inch wide and showed on top of the bosom about $\frac{3}{8}$ of an inch.

X Q. 19. Have you now any sample of a complete shirt with the bound fronts spoken of?

A. No, sir.

X Q. 20. Have you any record which shows that your dates are correct?

A. No.

X Q. 21. Do you know of any one who has such a shirt?

A. No; it is too long ago.

X Q. 22. How did these shirts open?

A. In the back—open backs.

X Q. 23. Were the bosoms pleated or plain?

A. They were made with box and single pleats. A box pleat means two pleats in opposite directions equidistant from the center of the bosom; a single pleat is one pleat near the center of the bosom.

X Q. 24. Were the different layers of the shirt bosom laid flat on the edge as shown in the sketch?

A. Flat; yes. It could not be done in any other way.

X Q. 25. Who did the work of securing these fronts to the shirt body?

A. Rosenbach & Co.

X Q. 26. Who planned the shirt so made?

A. That I don't know. If you mean the bosom alone, I did myself.

X Q. 27. You had nothing to do with it further than to make the bosom?

A. Nothing further.

X Q. 28. But the bosom you originated?

875 A. Yes; as shown in figures numbers 1, 2, and 3.

Adjourned until 3.30 p. m.

X Q. 29. How long did your manufacture of bound bosoms continue?

A. About three or four seasons.

X Q. 30. What stopped it?

A. The desire of the customers to have them made differently. We made them as long as they were ordered by this concern—M. Rosenbach & Co.

X Q. 31. When did that concern go out of business?

A. I think they failed about 1877—before that; they failed about 1873.

X Q. 33. Have you any books containing memoranda which will fix the dates of the making of these bound bosoms?

A. I think not.

X Q. 34. You are depending entirely on memory to fix the dates given in this deposition, are you not?

A. Yes. My memory, however, is refreshed by the arrival of this young man, Loeber, in this country in the beginning of 1872.

X Q. 35. How do you fix the date of his arrival?

A. By his own words to me to-day. I asked him particularly again, as I wanted to be sure.

X Q. 36. Except for his thus fixing the date of 1872—of his arrival in 1872—you could not yourself fix the same, could you?

A. Not the date of his arrival.

X Q. 37. Independently of his statement you could not positively fix the date when you were making these bound bosoms, could you?

A. Yes; I can; reasonably, by several other occurrences about that time. I know we made them several seasons before the panic of 1873. Nothing else strikes me just now.

X Q. 38. Did Rosenbach & Co. stop selling these shirts before they failed?

876 A. I don't know that.

X Q. 39. Did you stop making for them before they failed?

A. No: I manufactured off and on for them until their failure. I didn't do all their work.

X Q. 40. You made other than the bound-bosom fronts for them?

A. Yes, sir.

X Q. 41. What did you first make for them?

A. Ordinary open-front shirt bosoms, pleated and square.

X Q. 42. Please state what occurred when the first order for bound-bosom shirt fronts was given.

A. That I can't remember.

X Q. 43. Do you remember who told you how to make them?

A. No, I don't. I was told by an employee of the firm to make a bound shirt front. The "how" was my own idea, as I believe.

X Q. 44. Your idea, then, related to the "how" to make the shirt front simply, and not to the making of the shirt itself?

A. Yes; I had also to see that it was practical.

X Q. 45. Did you instruct them or their employees how to put the front onto the shirt?

A. That matter was so self-evident that it needed no instruction.

X Q. 46. You, then, may be said to have been the inventor of the Rosenbach shirt, if there was any invention in it?

A. Yes; but I claim it to be no invention, but only a shop device. I do such things daily—put one stitch here or there.

X Q. 47. What was your object in making the fronts as you did—the arrangement of the parts, I mean?

A. Merely to get up new, tasteful styles, which we are trying to do all the time.

877 X Q. 48. You, then, had no particular mechanical objects in view in so making these fronts, did you?

A. No; I did not regard it as anything very important.

X Q. 49. For what trade, wholesale or retail, were the shirts intended?

A. Wholesale, as near as I know.

ALEXANDER SINZHEIMER.

Subscribed and sworn to before me this 10th day of December, 1885.

JOHN W. BARRON,
[SEAL.] *Notary Public.*

JACOB LOEBER, a witness on behalf of defendants, being duly sworn, says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Jacob Loeber; I am 31 years old; reside at 716 New Market street, Philadelphia, and am employed as cutter for Hagedorn & Newman, of Philadelphia.

Q. 2. When did you arrive in this country, and with whom did you first obtain employment, and when?

A. I arrived in this country from Germany in January, 1872, and obtained employment with Mr. Alexander Sinzheimer (the previous witness), here present, immediately upon my arrival here.

JACOB LOEBER.

Subscribed and sworn to before me this 10th day of December, A. D. 1885.

JOHN W. BARRON,
[SEAL.] *Notary Public.*

878 United States Circuit Court, Southern District of New York. In Equity.

GEORGE W. CLUETT *et al.*
against
HORACE B. CLAFLIN *et al.*

Please take notice that we shall proceed to take proofs for final hearing on the part of the defendants to the above-entitled suit, under the 67th rule in equity and in accordance with the stipulation made herein, before John W. Barron, notary public, at his office, No. 209 South Sixth street, Philadelphia, Pennsylvania, on Tuesday, the 8th day of December, 1885, at 11 o'clock in the forenoon. You are invited to attend and cross-examine any witness produced. The examination will be adjourned from day to day, at such time and place, and without further notice.

Dated New York, December 3d, 1885.

DAVID TIM,
Solicitor for Defendants.

To James A. Skilton, Esq., solicitor for complainants, 115 Broadway, New York city.

CITY AND COUNTY OF PHILADELPHIA, *ss:*

I hereby certify that the above witnesses were duly qualified and examined at the time and place stated in the caption and subscribed their depositions in my presence.

JOHN W. BARRON,
Notary Public.

879 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on the part of the defendants, under and pursuant to the 67th rule of the Supreme Court of the United States, as amended, before Leopold Turk, Esq., notary public, at his office, No. 25 Chambers street, New York city, by consent, December 23d, 1885.

Present: James A. Skilton, of counsel for complainants, and Louis C. Raegener and David Tim, of counsel for defendants.

Counsel for defendants offers in evidence a copy of U. S. letters patent 111,978, dated February 21st, 1871, granted to Adolphe

Salmon, assignor to Cahm and Salmon, and the same is marked "Defendants' Exhibit Salmon Patent, December 23d, 1885, L. T., N. P."

Defendants' counsel also offers in evidence copy of British
880 letters patent No. 1594, of June 24th, 1864, granted to Benjamin Nicholl for an improvement in the manufacture and ornamentation of garments, &c., and the same is marked "Defendants' Exhibit Nicholl Patent, December 23d, 1885, L. T., N. P."

Defendants' counsel offers in evidence U. S. letters patent No. 134,909, of January 14th, 1873, granted to A. D. Marr, for shirts, and the same is marked "Defendants' Exhibit Marr Patent, December 23d, 1885, L. T., N. P."

Defendants' counsel offers in evidence U. S. letters patent granted to A. Conger, No. 146,656, January 20th, 1874, for an improvement in undershirts, and the same is marked "Defendants' Exhibit Conger Patent, December 23d, 1885, L. T., N. P."

Exhibits objected to by the complainants' counsel as not being competent evidence, since they are not certified copies.

Counsel for complainant states that this objection is made to protect the rights of complainant and may be considered waived unless complainants' counsel gives notice to the contrary within thirty days.

Moses Cahm, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Moses Cahm; age, 53; shirt business, 425 Broadway.

Q. —. How long have you been in the shirt business, and since when?

A. Since the latter part of 1863.

Q. 3. In what capacity, and where?

A. In the capacity of employer, and when I commenced as a member of the firm of S. Fribourg, Cahm & Company, on Murray
881 street, N. Y. city, they were engaged in the manufacture of shirts. That firm existed till 1867; then the firm became Cahm and Salmon. I think it was 52 Warren street, next to the Libby House, New York. That firm continued until about 1872, 1873, or 1874; I don't remember about that; then it was changed to Cahm, Salmon & Fribourg; that firm lasted till 1876 or 1877; I think it was in the first part of 1877; then the firm dissolved, and I continued in the shirt business with Julius Pepper until 1880; then we took in another partner, and it became Cahm, Pepper & Co., in the shirt and furnishing business. A year ago the firm dissolved, and I continued alone under the name of M. Cahm, 425 Broadway, N. Y.

Q. 4. Please look at "Defendants' Exhibit Salmon Patent, December 23rd, 1865, L. T., N. P." and tell us what you know about the same.

A. Mr. A. Salmon, my former partner in the firm of Cahm & Salmon, was the inventor of the same and my firm owned it.

Q. 5. If you ever made shirts like those shown and described in

the Salmon patent, please describe the same, and tell us how and when you made them, having particular reference to the bosom of the shirt.

A. We made them in 1878. I made a mistake; I mean 1868, 1869, and right along for some time.

Q. 6. In what quantities?

A. We made little lots at a time; never less than a case containing 60 dozen. They were sold to the trade.

Q. 7. Please describe how these shirts referred to in the previous answer were made.

A. The bosom was made set onto the shirt body; then it was a pleat or seam or binding, whatever you want to call it, from the shirt body stitched to the bosom; it was lapped over and two rows of stitches were served around the bosom.

Q. 8. Through what did these two rows of stitches go, and what did they unite?

882 A. First through the pleat; then through the bosom, and then through the body of the shirt—two rows of stitching.

Q. 9. Please look at "Defendants' Exhibit A" and tell us whether you have ever made shirts like the same; and, if so, when and where.

Question objected to as incompetent, because leading.

Question withdrawn.

Q. 10. Have you ever made bound-bosom shirts? And, if so, please describe the same and when and where you made them.

A. I did. We made them—I think it was in 1869. I think it is No. 41 White St., New York. The binding was sewed on the bosom. The binding was turned in and one row of stitching through binding, bosom, and body of the shirt.

Q. 11. How many rows of stitches appeared on the outside of the binding after the bosom was attached to the body?

A. One seam.

Q. 12. Please look at Defendants' Exhibit A and state whether the same resembles or is different than the shirt made by you and described in your previous answer and point out the resemblance or difference.

A. It was like this, with the exception (pointing to Defendants' Exhibit A) of the bosom being broad at the bottom.

Q. 13. In what quantities did you make this shirt?

A. A case, generally, which contained about sixty dozen.

Q. 14. What did you do with the shirts made in this way?

A. Sold them to the trade.

Q. 15. Which kind of shirt did you make first—the one like the Defendants' Exhibit A or the one shown and described in the Salmon patent?

A. We made the Salmon patent first.

883 Direct examination closed.

Witness cross-examined by Mr. SKILTON:

Q. How were these last-mentioned shirts marked or stamped?

A. Some number—40 or 80. I can't remember.

X Q. 17. Were they stamped with the date of the Salmon patent?

A. No, sir.

X Q. 18. Who got up this last-mentioned shirt?

A. It was got up principally by Mr. Salmon.

X Q. 19. Did he invent it?

A. We invented it between us.

X Q. 20. Had you ever seen a shirt made in that way before that time?

A. I don't remember whether I did.

X Q. 21. Did you have any shirt before you, as a pattern, of anybody else's make when you and Mr. Salmon planned this shirt?

A. We did not.

X Q. 22. Had you before that time seen any shirt with a binding on the edge of the bosom?

A. We had made one and made it so as to have the appearance of a bound bosom. It was lapped over, but it had no binding. A part of the body was lapped over on the bosom and stitched.

X Q. 23. Question repeated.

A. No.

X Q. 24. Who first suggested the binding—yourself or Mr. Salmon?

A. I don't remember.

X Q. 25. It was not yourself, then, I suppose?

A. I don't remember.

X Q. 26. You say in your answer to the 12th question "it was like this," referring to Defendants' Exhibit A, with the exception of the bosom being broader at the bottom. Was this the only difference?

A. As far as I can recollect; yes, sir.

X Q. 27. Were the plies of the bosom arranged in the same way as in Defendants' Exhibit A?

884 A. Yes, sir.

X Q. 28. Was the binding arranged and secured in the same way?

A. Yes, sir.

X Q. 29. Was the shirt body arranged in the same way in relation to the binding and to the bosom?

A. As near as I could remember, yes.

X Q. 30. Was the shirt an open-back or an open-front shirt?

A. It was an open-back shirt.

X Q. 31. Was the bosom set on to the shirt body?

A. Yes, sir.

X Q. 32. It was not set in?

A. No, sir.

X Q. 33. How long after you first made the Salmon shirt was it before you made the bound-bosom shirt?

A. It was some time after, but I can't really remember the time.

X Q. 34. About how long was it?

A. I really couldn't tell.

X Q. 35. When did you commence the manufacture of the Salmon shirt?

A. If I recollect, it was in the last of 1867 or in the year 1868; some time in the year 1868.

X Q. 36. Did you make and sell the Salmon shirt in 1868?

A. I think we did.

X Q. 37. Are you confident you did?

A. I think we did.

X Q. 38. Are you as confident you did as you are that you made the bound-bosom shirt as stated?

A. Yes, sir.

X Q. 39. By what do you fix the date of 1868 as the date when you manufactured the Salmon shirt?

A. I merely guess at about that time.

X Q. 40. You have no memorandums with you fixing any of these dates?

A. No; I could fix no dates at all.

885 X Q. 41. You have consulted no memorandums in fixing these dates, I suppose?

A. I have not.

X Q. 42. What was the date of the Salmon patent?

A. I think it was in 1871.

X Q. 43. And how long did you continue to manufacture the Salmon shirt after that?

A. Not very long after 1871; it didn't seem to take.

X Q. 44. What was the trouble with it that it didn't seem to take?

A. No particular trouble; other styles took better.

X Q. 45. How many pleats were there in the bound bosom of which you have testified?

A. We had various pleats; one, two, and three on a side, principally one and two.

X Q. 46. The bosoms were not made plain at that time, I presume?

A. No, sir.

X Q. 47. And those you made with the bindings were none of them plain, I suppose?

A. No, sir.

X Q. 48. How long did you continue to make these bound-bosom shirts?

A. We made them once or twice; not more.

X Q. 49. I suppose you made them after the Salmon shirt no longer took or was acceptable, and to take their place?

A. Yes; but we made the Salmon shirt till some time after 1871.

X Q. 50. How long?

A. As long as the old firm was in existence, I think; up to 1876 or 1877.

X Q. 51. Was there any other bound-bosom shirt in the market during the time when you made the two lots?

A. I don't remember of any.

X Q. 52. Why did you give up making the bound-bosom shirts?

886 A. It seems at the time it didn't take as well as the Salmon patent.

X Q. 53. Can you tell what year you made the bound-bosom shirt in?

A. It was after we made the Salmon patent. It must have been in 1869.

X Q. 54. Why must have been?

A. Because it was some time after and as near as I can recollect.

X Q. 55. Was the binding stitched upon the bosom and shirt in the same way in the bound-bosom shirt you made as is done in Defendants' Exhibit A?

A. Yes.

X Q. 56. Was it otherwise similarly secured by stitching—I mean the bosom ply, binding, and the shirt—all of it?

A. Yes, sir.

Adjourned until 2.30 p. m.

Examination continued:

X Q. 57. To whom did you sell the shirt with the binding?

A. Something I could not tell you.

X Q. 58. Have you any record showing who had those shirts or to whom you sold them?

A. I don't think I have; I don't remember.

X Q. 59. What was your idea or object and that of Mr. Salmon in getting up the bound-bosom shirt?

A. We have made new designs every few days and we made experiments.

X Q. 60. I suppose these two lots were experiments, gotten up to see whether they would take or not?

A. I don't know that they were experimental. After we had those few made we did not continue to make them.

X Q. 61. After you found they did not take I suppose you abandoned that style of make, did you not?

887 A. Did not abandon it, but we did not make any more.

X Q. 61. What was that but abandonment?

Objected to; calling for a judicial opinion.

A. If we had any orders for them we would have made them.

X Q. 62. So far as yourself and copartner are concerned, you gave up the manufacture of the shirts made as described of the binding on the edge of the bosom, did you not?

A. No, sir.

X Q. 63. I understand you did not make any more?

A. No; but there might have been a few made after that.

X Q. 64. Why didn't you continue the manufacture?

A. We did not have any call for them.

X Q. 65. You stopped their voluntary manufacture, did you not?

A. We did not make up our mind to stop; except we had orders for them we would not make them.

X Q. 66. Then you did stop the voluntary manufacture, as I understand you?

A. I did not stop manufacture them voluntarily, except on orders.

X Q. 67. You got no orders, I suppose?

A. I might have got a few orders; I cannot exactly remember.

X Q. 68. How long did you manufacture that bound-bosom shirt?

A. I could not tell you; it was a short time.

X Q. 69. About how long?

A. Along about the year 1879.; I mean 1869.

X Q. 70. For what length of time?

A. I really don't remember.

X Q. 71. Did it continue for a year?

A. I don't think it did quite.

888 X Q. 72. Do you remember getting any orders for it?

A. I do not.

X Q. 73. Did you keep that shirt in stock?

A. Yes.

X Q. 74. How long?

A. During that year.

X Q. 75. You mean, I suppose, that you kept that one or two lots that you first spoke of in stock until they were sold?

A. I do.

X Q. 76. You kept no other of these bound-bosom shirts in stock, I suppose?

A. No.

X Q. 77. You mean by keeping them in stock that you simply kept the first lot or lots until they were worked off or sold and then made up no more?

A. Except we had other orders, we made no more up for stock.

X Q. 78. You don't recollect having any orders?

A. I don't recollect of any; I can't tell.

X Q. 79. Did you think at the time, from your experience at the time with this bound-bosom shirt, that it was any improvement on the Salmon shirt of the patent?

A. I did not think so.

X Q. 80. You continued to make up the Salmon shirt both on orders and for stock?

A. Yes, sir.

X Q. 81. For how long did you so continue?

A. I can't tell exactly; for some time later than 1871 or 1872, I think.

X Q. 82. Your last answer refers to the Salmon shirt?

A. The Salmon patent.

X Q. 83. How long since you have made up samples of the Salmon shirt?

A. I don't think there had been any since 1872.

889 X Q. 84. Have you in your possession a shirt made with the binding as you have described and of the one or two lots of which you have testified?

A. No, sir.

X Q. 85. Are there any in existence, to your knowledge?

A. No.

X Q. 86. Out of all that you made with the binding are there any in existence now?

A. I could not tell; I don't know of any.

X Q. 87. What seemed to be the objection to these shirts?

A. I don't know. There didn't seem to be any demand.

X Q. 88. Did you have to make up a job lot to sell them off?

A. I don't remember whether I did or not.

X Q. 89. The Salmon shirts were made like the drawing of the Salmon patent, I suppose?

A. I suppose so.

X Q. 90. Please describe how they were made. I refer to those spoken of in the 5th question and answer.

A. The shirts were made with a round bosom open in the shoulder. The body was a regular body of white shirt. The bosom was set on, and the edge on the body of the shirt was stitched with the part of the body of the shirt. The body was turned over on the bosom and stitched.

X Q. 91. Was not the bosom set into the body, a place being cut out from the body to receive the bosom instead of being set on the body?

A. As near as I can recollect, the bosom was set on the body.

X Q. 92. And not set in, I suppose?

A. Yes; the bosom set on the body, as near as I can recollect, and not set in.

X Q. 93. Was these bound-bosom shirts open on the shoulders like the Salmon shirts or not?

A. No, sir.

890 X Q. 94. Did you stamp the Salmon shirts, of which you testified as patented under the Salmon patent, put in evidence here to-day?

A. The first stamp before it was "patent applied for;" after we had the patent it was stamped with the date of the Salmon patent.

X Q. 95. These shirts, made by setting the bosom on the shirt body, were stamped with the Salmon patent, as I understand you?

A. Yes, sir.

X Q. 96. Did you stamp any other style of shirts as patented and with the date of the Salmon patent except such shirts—except such as are mentioned in the last answer?

A. I don't remember any.

X Q. 96. As I understand you, none of the shirts of the Salmon invention, made while your partnership lasted, had the bosom set in the shirt?

A. I really don't remember whether it was or not.

X Q. 97. Did not the shirt body, where folded over the edge of the bosom at the lower curve part, pucker or gather instead of lying smoothly when secured in place?

A. Well, not necessarily.

X Q. 98. How was that prevented?

A. I presume by putting it on smoothly. I don't remember.

X Q. 99. How did the workman manage to put it on smoothly?

A. I don't remember. I could not tell that.

X Q. 100. Can you tell now how it could be put on smoothly and without gathering?

A. I could not.

X Q. 101. Did you have charge of the manufacture at that time?

A. No, sir.

X Q. 102. What branch of the business did you have charge of?

A. Principally the stock and selling.

891 X Q. 103. What experience have you had in the practical manufacturing part of the shirt business?

A. Well, I never have had much experience in the manufacturing part.

X Q. 104. Do you consider yourself an expert and familiar with the manufacturing part of the shirt business?

A. I don't consider myself an expert and am not much familiar with the manufacturing part of the business.

X Q. 105. Who attended to the manufacturing part of the business when you and Mr. Salmon were partners?

A. Mr. Salmon.

X Q. 106. Where is Mr. Salmon now?

A. He is in Europe. Headquarters in Paris.

X Q. 107. As you understand it, in the patented Salmon invention the bosom is set on the shirt body, is it?

A. As far as I know I think it is.

X Q. 108. How do you explain the fact, then, that, as shown in the patent, the bosom is set into the shirt body instead of onto it? Please examine the Defendants' Exhibit "Salmon Patent, Dec. 23, 1885, L. T., N. P.," before making your answer, and which I now place in your hands.

A. The only way I know of the way he used to explain to me—meaning Mr. Salmon—that the bosom was set on. That is all the explanation I can give.

X Q. 109. You always supposed, then, that in the Salmon shirt made under this Salmon patent the bosom was secured upon the front of the shirt body and not inserted therein in an opening cut out from the shirt body to receive it?

A. Yes, sir.

X Q. 110. Have you no recollection of seeing a Salmon shirt with the bosom inserted, as shown in the drawing of Defendants' Exhibit, December 23rd, 1885, L. T., N. P., Salmon Patent?

892 A. Nothing, more than what he used to tell me, but bosoms set on.

X Q. 111. Are you not possibly, in speaking of a shirt with the bosom set on, thinking of a shirt of a subsequent and much later date and manufacture?

A. I really don't remember no particulars.

X Q. 112. May you not be thinking of a later manufacture?

A. I am not positive.

X Q. 113. And it may be so?

A. I am not positive; it may be so. I never knew anything different than the set-on bosom.

X Q. 114. How many rows of stitching were there on this set-on bosom with the shirt body folded over its edge of the Salmon patent?

A. I think it was two rows.

X Q. 115. What makes you think so?

A. I seen them and handled them so much; in fact they could not have been made otherwise.

X Q. 116. How many pleats were on the bosom of these shirts?

A. Principally one and two on each side of the center.

X Q. 116. How are the others made? Did they have more than two?

A. Some had three.

X Q. 117. Will you please make a diagram showing how the bound-bosom shirt of which you have testified was made, giving a section of the bosom binding and front of the shirt body, with all the parts in their proper positions in relation to each other, and also the location of the stitching?

A. I could not do that except what I know about them when I see them.

X Q. 118. Do you understand that the Salmon shirt shown on the Salmon patent drawing has the bosom set on or set in?

Patent shown the witness.

A. I could not tell anything by that at all, whether it was set in or on.

893 X Q. 119. Can't you draw lines on a piece of paper in pencil or ink showing how the different layers of the bosom binding and shirt body were disposed in the bound-bosom shirt of which you have testified?

A. I could not.

X Q. 120. Can you describe by what process or method of operation the binding was secured to the bosom and shirt body in that shirt?

A. Well, the binding I can explain you a little bit. The binding was sewed on the bosom and here turned over and one row of stitching right through as near as I can recollect; that is all I can remember.

X Q. 121. How many rows of stitching were they?

A. As near as I can remember there was one row.

X Q. 122. Only one?

A. Yes, sir.

X Q. 123. How was the folding of the binding done?

A. Well, this way: it was bound down, then turned over and sewed on. I don't remember how it was done, whether by machine or hand; I could not say.

X Q. 124. You are still confident there was one row of stitching?

A. One row of stitching on the outside.

X Q. 125. Where was that located?

A. Right on the edge of the bosom and binding.

X Q. 126. How many folds were on the binding?

A. I suppose there were two.

X Q. 127. And no more?

A. No more than two.

X Q. 128. Are you confident that the stitching was not first through the shirt bosom within the edge of the binding?

A. The binding was sewed on the bosom by an inside seam and then turned over and turned in and then stitched.

X Q. 129. How many layers of binding did the first stitch go through?

A. One.

894 X Q. 130. That line of stitches did not show in front?

A. No; not plainly.

X Q. 131. As I understand you the second step was to fold the binding over the first row of the stitching and under the edge of the bosom. Is that so?

A. I can't tell what you mean by turning the binding over the stitching. The binding was turned over the edge of the bosom and stitched on.

X Q. 132. Are you still unable to make a diagram showing how it was done?

A. I am unable to make a diagram.

X Q. 133. How were the edges of the bosom laid? Were they folded in or not?

A. I don't remember now. I don't think they were folded in.

X Q. 134. How many plies were in the bosom?

A. I don't remember. One or two plies.

X Q. 135. I suppose the edge might have been turned?

A. I don't think so. If they had been turned you could not very well have sewed the binding on.

X Q. 136. Is that the reason why you think they were not turned?

A. No particular reason, but I don't think they were turned.

X Q. 137. Still they might have been, I suppose, so far as you know?

A. I don't remember of any. It is so long ago.

X Q. 138. Was it not customary in 1868, 1869, and 1870 and even later to turn in the edges of the bosoms in attaching them to the shirt?

A. I really don't remember.

Examination further adjourned to December 28th, 1885, at 11 o'clock a. m.

Examination resumed Monday, December 28th, 1885, at 11.30 a. m.

895 Present: Louis C. Raegener and David Tim, of counsel for defendants; no one for complainants.

Redirect examination of MOSES CAHM continued by Mr. RAEGENER:

R. D. Q. 139. Is there anything in your previous testimony which you would like to correct?

A. There is nothing, with the exception that in the Salmon patent the bosom was set in and not set on, and I believe in my former testimony I was mistaken when testifying that in the patented Salmon shirt made by my firm the bosom was set in instead of set on. That is all.

MOSES CAHM.

Sworn to before me Dec. 28th, 1885.

LEOPOLD TURK,
[SEAL.] *Notary Public, N. Y. Co.*

Mr. Skilton appeared at 11.35, and states that he found the witness Cahm gone out of the building, although according to the record his redirect examination was resumed at 11.30 a. m. and testimony given by him, which must have taken some time in the giving and writing down of the same. Counsel for complainants also states that he called upon defendants' solicitor and counsel to produce the witness, Moses Cahm, for the continuation of his cross-examination, that cross-examination not having been closed Whereupon a messenger was sent for Mr. Cahm, who returned without finding him and without going to his place of business, which is on Broadway, not far away, for that purpose. At the end of a half hour the counsel and solicitor for defendants verbally notified counsel for complainants that the counsel for complainants might subpœna the witness if he chose so to do, but that they would not further produce him for cross-
896 examination, although repeatedly requested by counsel for complainants so to do. Whereupon counsel for complainants gives notice that he will move the court to strike out the testimony of this witness, Moses Cahm, on the ground that the defendants refused to produce the witness to complete his cross-examination, and will also move to strike from the record particularly redirect question No. 139 as being taken irregularly without the cross-examination having been closed and without waiting the usual time for the appearance of complainants' counsel. Counsel for complainants also states in explanation of his delay in appearing that at the time of the taking of the testimony of this witness it was agreed that complainants should be furnished, for the use of complainants' counsel, with letter-press copies of the testimony here taken; that the complainants' counsel repeatedly, by messenger and by letter, requested that such copies should be furnished, both from defendants' solicitor and counsel, and on Saturday last about noon was promised by counsel for defendants that he would make such copies and have them delivered on that day, which promise was not performed. Waiting until about 10 o'clock of this day, December 28th, counsel for complainants again sent for the copies of the testimony in order to prepare for the cross-examination of the witness, and on the return of the messenger, not far from 11 o'clock a. m., the copies were received and hastily examined for the purpose of preparing for the further cross-examination of witness. Whereupon counsel for complainants made haste to attend at the office of David Tim, 25 Chambers street, where he arrived between 11.30 and 11.35 a. m., to find the witness gone and out of the building, as previously stated.

Counsel for complainants also states that the office clock in the office of David Tim, between 11 and 12 o'clock of this day,
897 incorrectly indicated the time, having advanced or been advanced beyond the correct time.

Counsel for complainants again states that he had not completed the cross-examination of the witness, Moses Cahm, and hereby renews his request that the defendants produce the witness for that purpose.

Counsel for defendants repudiates the insinuation that the clock was tampered with, and says the time was fixed by the watches of the several persons in the room at the time the testimony of the witness was taken; attention to the fact was called *to* the office clock was wrong, and asks the notary to certify to that fact.

Counsel for complainants states that it was exactly 11.30 by the city-hall clock when he passed the city hall on his way to the office of David Tim, to which he hurriedly proceeded by way of the elevator, and must have occupied less than 5 minutes.

Adjourned to Dec. 29, 1885, at 10.30 a. m.

I certify to the fact as stated and mentioned by the counsel for defendants as to the clock.

N Y., Dec. 28, 1885.

LEOPOLD TURK, *Referee.*

NEW YORK, *December 29th*, 1885.

Parties all present.

ALBERT BORCHARDT, a witness produced on the part of the defendants, being duly sworn, testifies:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Albert Borchardt; age, 36; manufacturer for the firm and superintendent for V. Henry Rothschild & Company, whose place of business is at the corner of Leonard street and West Broadway, New York city. I reside at West Hoboken, New Jersey.

898 Counsel for complainants objects to the testimony of this witness on the ground that his name was not set up or mentioned in the answer.

Counsel for defendants says that the witness' name is set up in the answer, but his residence is mistakenly given as New York city, while it turns out to be West Hoboken, but the witness does business in New York city and probably spends the greater part of his day there. If, however, counsel claims to be surprised by the production of this witness, defendants' counsel is willing to adjourn the proceedings in order to enable him to amend the answer and at the same time give complainants' counsel an opportunity to make such investigations as he sees fit.

Counsel for complainants states that he relies upon his objection entered in the record without further action at present.

Q. —. When did you enter the shirt business?

A. In the year 1865, with the firm of Bucki & Necarsulmer, at 111 Chambers street, N. Y. city.

Q. 3. How long did you remain with this firm and in what capacity?

A. I remained there about five years; came there as errand boy and left there as superintendent of the manufacturing department.

Q. 4. What business was this firm with whom you were employed between 1865 and 1870 engaged in—what particularly did they manufacture?

A. They manufactured dress shirts, overshirts, overalls, and underwear; in particular, dress shirts.

Q. 5. While with this firm what were your particular duties during 1869 and 1870?

A. In the latter part of 1869 I was superintending the manufacturing department. I attended to giving out the work and taking it in.

899 Q. 6. What did you do in 1870?

A. The same as in 1869, when I left the firm and went to the firm of Rothschild Bros. & Goodman.

Q. 7. What position did you occupy with this new firm?

A. I was general superintendent and shipping clerk.

Q. 8. What business was this firm engaged in?

A. In manufacturing dress shirts, overshirts, overalls, and underwear.

Q. 9. How long did you remain with this firm and how long did it exist?

A. I remained with them until May, 1876. The firm existed until 1877.

Q. 10. In what business were you engaged after you left the firm of Rothschild & Goodman?

A. I went to the firm of Moses Blum & Weil, in Leonard street, N. Y. Their business was the manufacture of dress shirts, overshirts, overalls, and underwear. I went there as salesman, and after three months took charge of the manufacturing department, where I remained till I left, in 1881.

Q. 11. Where did you go after that?

A. I went with V. Henry Rothschild & Co., with whom I am now. My present firm are the successors of Rothschild, Bro. & Goodman.

Q. 12. Did you ever manufacture bound-bosom shirts? If so, for whom and when first?

Counsel for complainants objects to the answer of this question, on the ground stated in the beginning of the record, made by this witness, and it is understood that this objection shall apply to the testimony of this witness as heretofore given and as it may hereafter be given.

900 A. Yes. I manufactured bound-bosom shirts for all and every one of my employers, and I manufactured same first for Bucki & Necarsulmer in the year 1867 and 1868.

Counsel for complainants objects to the question as indefinite in the use of the term "bound-bosom shirt."

Q. 13. Please describe with particularity the shirts made by you in 1867 and 1868, referred — in your previous answer.

A. The shirts referred to were of two kinds: First, a dress shirt, having a ruffled or puffed bosom. Said bosom was composed of eight separate pieces, No. 1 forming the center of upper half of the bosom; No. 2, the center of under half of bosom. These parts were either made of linen, cambric, or percales. Nos. 3 and 4 were the centers or middle parts of both upper and under halves of bosoms. These were ruffled or gathered, being caught in and sewed into parts one and two to form puffs. Numbers 5 and 6 were little strips of either linen, cambric, or percale, which were formed in such a manner that both raw edges were folded under. These strips were placed in the centre of parts 3 and 4, gathering them below strips 5 and 6 as they were sewed thereon. Parts 7 and 8 are strips of either linen, cambric, or percale, which were folded and sewed around the outer edge of parts 3 and 4, gathering said parts 3 and 4 as they were sewed thereon and binding them at the same time. After said bosoms were formed they were fastened on top or front of the shirts, either by a seam or row of stitching directly upon the seam or stitching which fastened parts 7 and 8 to parts 3 and 4 or by a separate row of stitching on the outer edge of parts 7 and 8. The second kind of shirts manufactured were an overshirt, either made
901 of woolen or cotton goods, having a bosom varying from two to four inches in width. This bosom was composed of three parts, part 1 being a strip of woolen or cotton goods, either of similar quality or contrasting quality to body of shirt. This part forms the upper bosom. Part 2 is a strip of goods being half the width of the first part mentioned, being either made of woolen or cotton goods, one edge of which is fastened to the center of the shirt, while the other edge is fastened to part 1 by part 3, part 3 being a strip of goods which is fastened and sewed around the outer edges of parts 1 and 2, thus binding same. After bosom being made, that part of part 1 that is not attached by binding part 3 to part 2 is stitched to the front of the shirt, either in the row of stitching formed by joining part 1 to part 3 or by a separate row of stitching on the outer edge of part 3.

Q. 14. In what quantities did you manufacture the two varieties of shirt described in your previous answer?

A. These shirts were sold at that time, the prices varying from $10 to $24 a dozen.

Answer objected to as not responsive.

Q. 15. Question repeated.

A. Cotton, percale, and woolen goods.

Q. 16. How many of these bound-bosom dress shirts and how many of these bound-bosom woolen shirts referred to in your answer to question 13 did you make up?

A. We made 200 dozen of dress shirts and 20 dozen of woolen shirts.

Q. 17. How long did you continue to manufacture the two varieties of shirts referred to in your answer to Q. 13?

A. We manufactured these shirts until the year 1872.

902 Q. 18. Please make a sketch or model of the two varieties of shirt described by you in your answer to Q. 132.

A. I have done so, and one I have marked "dress shirt No. 1," with my signature, and the other "overshirt No. 2," with my signature, the figures upon the same having reference to the explanation given by me in answer 13.

Defendants' counsel offers sketches made by witness in evidence, and the same are marked "Def'ts' Exhibit Borchardt Dress Shirt Sketch, Dec. 29th, 1885, L. T., N. P.," and "Def'ts' Exhibit Borchardt Overshirt Sketch, Dec. 29th, 1885, L. T., N. P.," the former sketch being entirely in pencil and the latter partially so.

Q. 19. Will you please make two shirts like those shown upon your sketches at the expense of the defendants and produce the same at some subsequent session?

A. Yes.

Q. 20. Who makes the designs and patterns in your business?

A. I do.

Q. 21. How long have you been engaged in making patterns and designs?

A. I have made patterns and designs since 1876.

Q. 22. When did the open-back shirts first come into general use in this city?

A. In 1868 or 1869.

Adjourned until 1.30 p. m.

Examination of witness resumed at 1.45 p. m.
Parties present as before.

903 Q. 23. Please look at copy of letters patent to Robert Cluett for improvement in shirts, No. 156,880, granted November 17th, 1874, and after reading the same tell us whether you understand the invention and shirt there shown and described.

Counsel for complainants objects to the question and to any answer thereto by this witness on the ground that he has not been shown to be competent to understand or construe the patent and the invention therein described.

A. I see no invention.

Q. 24. Please tell us whether you could make the shirt shown and described in this patent—that is to say, whether you know how the same is to be made.

Same objection repeated.

A. Yes, sir; I know how it's made.

Q. 25. Please tell us, from your knowledge of the state of the art prior to August 1st, 1872, whether there was any novelty in the shirt shown and described in the Cluett letters patent, and whether it

required any invention to produce the same at that time. By the terms "your knowledge of the state of the art" I have reference to shirts actually made by you and known by you to have been made by others and in the market.

Same objection repeated.

A. I can see no novelty.

Q. 26. How many designs or patterns have you yourself gotten up while in the shirt business?

A. One hundred.

Q. 27. For how many different houses and firms do you at present make designs and patterns for shirts?

A. For one, V. Henry Rothschild & Co.

904 Q. 28. About how many hands does your house employ?

A. About two thousand.

Q. 29. Have you ever applied for letters patent for improvements in shirts yourself?

A. Yes, sir.

Q. 30. For how many?

A. Two.

Q. 31. Were these shirts described by you in your answer to question 13, and of which you have made a sketch, sold in the market on or about the time they were made?

A. Yes, sir.

Defendants' counsel says that he closes his direct examination, but reserves his right to recall this witness for the sole purpose of identifying and offering in evidence and explaining two shirts to be made by the witness in accordance with the sketches offered in evidence and the answer to question 13.

Cross-examination by Mr. SKILTON:

X Q. 32. In whose employ were you in 1874?

A. In the employ of Rothschild Bros. & Gutmann.

X Q. 33. In 1875?

A. Rothschild Bros. & Gutmann.

X Q. 34. In 1876?

A. In the employ of Rothschild Bros. & Gutmann up to May 1, 1876; in business for myself from May 1 to July 1, 1876; and from July 1, 1876, to the end of the year in the employ of Moses, Blum & Weil.

X Q. 35. In making the two sketches which have been offered in evidence, have you accurately represented all the parts of the shirt bosom and of the shirt as connected with the bosom and in the exact relations of these parts to each other?

905 A. Yes, sir.

X Q. 36. Who got up the dress shirt represented in the first sketch—that is, who originated that form of shirt and bosom?

A. I don't know; it was gotten up long before I was born, as illustrations of the time of Louis XIV show the same bosom.

X Q. 37. Who got up that shown on the second sketch?

A. I don't know; long before I can remember.

X Q. 38. Suspending examination in this linefor a moment, I place before you two tracings which I have had made from the two sketches made by you and here put in evidence. Will you please examine these two tracings and state whether they correctly represent the sketches made by you and also the shirts made as stated in your direct testimony by you or under your direction?

A. I have examined them and they are the same as my sketches.

X Q. 39. Will you please identify each of these tracings by your signature?

A. Yes, sir. (Witness does so.)

X Q. 40. Do you testify that shirts made upon the plan shown in your first sketch were made before you were born?

A. No, sir.

X Q. 41. You so stated in your answer to cross-question 36, did you not?

A. In that question I said I did not know. If you ask me a positive question I'll give you a positive answer.

X Q. 42. Who got up the dress shirt represented in the first sketch—that is, who originated that form of shirt and bosom?

A. I don't know.

X Q. 43. Where did you first get the pattern of it from?

A. I don't remember.

906 X Q. 44. Did you originate it yourself?

A. No, sir.

X Q. 45. What concern first manufactured it, to your knowledge, and when? I refer to the dress shirt shown in your first sketch.

A. To my knowledge, Bucki & Necarsulmer, in 1867 or 1868.

X Q. 46. How long did the manufacture of this shirt continue?

A. Until 1872.

X Q. 47. By the same concern?

A. By Bucki & Necarsulmer, Rothschild Bros. & Gutmann, A. Warmser, Wolf & Moses. That's all I remember just now.

X Q. 48. Why did the manufacture of this shirt stop in 1872, if you know?

A. This style got out of fashion.

X Q. 49. Why did it get out of fashion and how—that is, in what respect?

A. People got tired of wearing it.

X Q. 50. What part of the shirt did they get tired of wearing?

A. I suppose the part they didn't like.

X Q. 51. Do you know what part that was? If so, name it.

A. I don't know.

X Q. 52. Was it the bosom of the shirt or the body of the shirt, which?

A. The bosom, perhaps.

X Q. 53. What part of the bosom?

A. The front.

X Q. 54. About 1872, then, the public showed a preference for a bosom of their dress shirts different from that shown in your first sketch. Is that so?

A. Yes, sir.

X Q. 55. Why did they do so, if you know?

A. They wanted to have a change.

X Q. 56. Do you know why they wanted to have a change?

A. No.

907 X Q. 57. What style of bosoms came into use in place of the style of bosoms shown in your first sketch, in 1872?

A. Fancy percale and print shirts succeeded puff bosoms.

X Q. 58. When did plain bosoms come into use?

A. I don't know.

X Q. 59. How long after 1872?

A. Not after 1872.

X Q. 60. How long before 1872?

A. I couldn't tell you. They had been in fashion several times before that.

X Q. 61. Mention what times.

A. I couldn't tell you.

X Q. 62. Don't you know?

A. I know they have been in use before I have been in the shirt business.

X Q. 63. How do you know that?

A. Because I have seen them worn.

X Q. 64. Are you referring to open-front shirts in your last answer?

A. I am referring to plain-bosom shirts, as asked.

X Q. 65. Do you include in the answer referred to open-back shirts with plain bosoms?

A. I include both open front and back.

X Q. 66. When did open-back shirts first come into use?

A. Before I went into the shirt business.

X Q. 67. Did you ever see a plain-bosom open-back shirt prior to 1868; and, if so, where and when?

A. Yes, sir; I seen it in Berlin prior to 1856.

X Q. 68. How were the bosoms attached to the shirts in that case?

A. I don't recollect.

X Q. 69. How were the bosoms attached when the open-back shirts first came into general use in this city, in 1868 and 1869?

A. They were either placed on top of the body of the shirt and stitched to the body or the body of the shirt was placed in between the

908 plies of the bosom, an opening being cut in the body of the shirt to receive the bosom.

X Q. 70. Now, in the first instance, where the bosom was placed on the shirts, how was the edge of the bosom formed?

A. A ply of the bosom passing over and around the other plies towards the body of the shirt, thus covering the edge of same, then a row of stitching passing through the bosom and the front of shirt, joining same.

X Q. 71. In order to so make a shirt the front layer of the bosom had to be cut larger so as to be capable of turning over and under the edge of the other ply or plies, had it not?

A. Not necessarily.

X Q. 72. Why not?

A. The lower plies could be turned towards the outside, thus forming a heavy edge.

X Q. 73. My question related to the method shown in your answer to cross-Q. 70, in which you say "a ply of the bosom passing over and around the other plies towards the body of the shirts, thus covering the edge of the same." Does that language correctly represent the method of making the shirt; if not, why not?

A. Yes; that is correct.

X Q. 74. As I understand your illustration made by using several layers of paper, the several plies of the bosom are all turned under towards the shirt body in the shirt referred to in the answer to cross-Q. 70, and not one ply of the bosom over the edges of the other plies. Am I correct?

A. No, sir; I simply stated that one ply passed around the other plies towards the body of the shirt, covering the edges of the other plies. These other plies may either be turned over towards the inside or outside of the bosom, and will in either case cover the edges of same, I mean, and will in either case be covered by the top ply.

909 X Q. 75. Please make a sketch showing how the plies are disposed in the shirt referred to in your answer to cross-Q. 70.

A. I have done so and identified the same by my signature.

Counsel for complainants offers the same in evidence, to be marked "Borchardt Sketch No. 3, L. T., N. P."

X Q. 76. Please make a sketch showing how the edge of the bosom is formed where the body of the shirt was placed in between the plies of the bosom, as stated in the last part of the answer to cross-Q. 69?

A. I have done so, identifying the several parts in writing.

Counsel for complainants offers the same in evidence, to be marked "Borchardt Sketch No. 4, L. T., N. P."

X Q. 77. What part of the Cluett patent did you look at preparatory to answering Q. 23?

A. At their claims; nothing else—their specifications.

X Q. 78. Did you read the entire specifications of that patent?

A. Such as I was shown.

X Q 79. Did you do so after the question was put to you?

A. Yes.

X Q. 80. Did you also examine the drawing and the different figures shown therein?

A. Yes.

X Q. 81. How long did that take you?

A. I didn't look at the watch.

X Q. 82. About how long did it take you?

A. I couldn't tell.

X Q. 83. Did you take 5 minutes to do it?

A. I don't know.

910 X Q. 84. Did you take two minutes in examining it after the question was put to you and the patent was placed in your hands?

A. I guess so.

X Q. 85. Are you sure you did?

—. ——.

X Q. 89. Do you understand the invention claimed in that patent, the alleged invention, if you will?

A. I understand the claim of the alleged invention.

X Q. 90. Please give your understanding of it, then.

A. The petitioner of said patent claims to have invented a novel way of covering the edges of a bosom with binding and securing same to body of shirt in such a manner as to produce a swelled edge. That's all.

X Q. 91. Is that the only invention you understand as shown and claimed in that patent?

A. That is all the petitioner claims in said patent.

X Q. 92. Is your testimony herein given based upon such an understanding?

A. My testimony given in this case is given without any reference to existing or *claimant* patents.

X Q. 93. Do you understand that the dress shirt represented in your "sketch No. 1" herein shows or anticipates the invention shown in the Cluett patent referred to?

Witness first said he didn't know whether he was called as an expert, and asks defendants' counsel whether he must answer the question, and defendants' counsel answered that he must answer the same; but if he desired to look at the Cluett patent first he could do so.

A. Yes, sir.

X Q. 94. Do you understand that the shirt shown in "sketch No. 2" also shows and anticipates the invention shown in that patent?

A. Yes, sir.

911 X Q. 95. You claim to be a mechanical expert in shirt manufacture, do you not?

A. Yes, sir.

X Q. 96. What do you understand to be the object of the invention shown in the Cluett patent No. 156,880?

A. I see no object. It is simply a matter of style.

X Q. 97. And your testimony herein, so far as it relates to the Cluett patent and invention, has been given with the view or opinion contained in the last answer in your mind, has it not?

A. I don't think there is any object in said claimed patent.

X Q. 98. Has your testimony herein to-day been given with that opinion.

A. I wasn't called here to give my opinion.

X Q. 99. Have you had that opinion during the time while you have been giving your testimony herein to-day?

A. When I came here this morning I had no opinion whatever

concerning this case, and whatever opinion I may have formed has been developed during the progress of this session.

X Q. 100. So long as you have had any opinion upon the subject have you had the opinion expressed in your answer to X Q. 97 and X Q. 96?

A. The answers to the above-named questions were the result of my examining the Cluett patent.

X Q. 101. Question repeated.

A. I expressed my opinion as well as it was formed at that time.

X Q. 102. Have you ever had any other opinion since you first became acquainted with that patent?

A. No.

X Q. 103. Then you have always had the opinion expressed in your answers to those questions since you had any opinion on this subject?

A. I am only forming an opinion as this case is progressing, and the only opinion I am forming is the one I have expressed.

912 Cross-examination of this witness suspended until January 2d, 1886, at 1 p. m.

Adjourned until December 30, 1885, at 11 o'clock a. m., for the examination of other witnesses.

NEW YORK, *January 2d*, 1886.

Parties present: Louis A. Raegener and David Tim, counsel for defendants; J. A. Skilton, counsel for complainants.

Cross-examination of ALBERT BORCHARDT resumed:

X Q. 104. You say in answer to X question 96, in reference to the object of the invention shown in the Cluett patent, that you "see no object; it is simply a matter of style." Are you of that opinion still?

A. Yes.

X Q. 105. As to the kind of shirt shown in your No. 1 sketch do you consider that also as a matter of style simply?

A. Yes.

X Q. 106. The same question as to sketch No. 2.

A. Yes; the same answer.

X Q. 107. Do you understand that the styles shown in the sketches Nos. 1 and 2 are the same as the style shown in the Cluett patent?

A. No, sir.

X Q. 108. You don't understand, then, that the styles shown in sketches Nos. 1 and 2 anticipate the style shown in the Cluett patent, do you?

A. No, sir.

X Q. 109. Do you understand that the construction shown in sketches Nos. 1 and 2 anticipates the construction shown in the Cluett patent?

A. Yes, sir.

X Q. 110. How can that be if the styles are different?

913 A. The style does not relate to a mechanical construction.

X Q. 111. Does not the style depend upon the mechanical construction in each one of the three cases referred to?

A. Partially so.

X Q. 112. Please designate what parts of the styles depend upon, mechanical construction and what part or parts of the several styles if any, do not depend upon mechanical construction, making a careful distinction between the three different cases.

A. The mechanical construction which unites the three in style is the binding of bosom and stitching of same to shirt.

X Q. 113. Question repeated.

A. The mechanical construction referred to is the same in each. The styles otherwise do not relate to each other.

X Q. 114. That answer does not answer my question. It is not responsive. What I want you to do is to designate what parts of the several styles depend upon mechanical construction, and also what parts of the several styles do not depend upon mechanical construction.

A. Styles are not the result of mechanical construction.

X Q. 115. What are they the result of if not of the mechanical construction?

A. The result of changing mind.

X Q. 116. What characteristics of the three shirts do the differences in style depend upon?

A. One is a plain-bosom shirt, one is a ruffled-bosom shirt, and one is an overshirt.

X Q. 117. Isn't there a difference in the mechanical construction between the plain-bosom shirt and the ruffled-bosom shirt?

A. Yes; one is ruffled and the other is plain.

X Q. 118. Then there is a difference in the mechanical construction, is there not?

914 A. There is a difference in the style.

X Q. 119. Isn't there a difference in the mechanical construction?

A. One is a ruffled and one is plain.

X Q. 120. Question repeated.

A. There is no mechanical difference.

X Q. 121. Isn't the ruffling done mechanically?

A. Yes.

X Q. 122. There is no ruffling in the Cluett patent, is there?

A. No, sir.

X Q. 123. Then there is a difference between the two in mechanical construction, is there not?

A. No, sir.

X Q. 124. What does the difference in style depend upon, then, in the three shirts?

A. Its appearance.

X Q. 125. What part of the appearance?

A. That part which changes from each other.

X Q. 126. Will you please designate or point out the parts in

sketches Nos. 1 and 2 which have corresponding parts in the Cluett invention and patent, if any?

A. Parts 7 and 8 in sketch No. 1 and part 3 in sketch No. 2.

X Q. 127. With what parts do these correspond in the Cluett patent and invention in your view?

A. Part B″.

X Q. 128. Do you find any other part or parts in these two sketches besides the parts 3, 7, and 8 already mentioned that have corresponding parts in the Cluett invention and patent?

A. No, sir.

X Q. 129. Do you find anything in the Cluett invention and patent corresponding to parts 1 and 2 in sketch No. 1?

A. Yes, sir.

X Q. 130. What?

A. The centre; it is to be found in the centre of figures 5, 3, 10, 12, and 15 of the Cluett patent.

915 X Q. 131. Do you find anything in the Cluett invention and patent corresponding to parts 5 and 6 of sketch No. 1?

A. None.

X Q. 132. Same question as to the parts 3 and 4 in sketch No. 1.

A. No, sir.

X Q. 133. Can you name any points in the method of construction shown in sketch No. 1 which resemble the method of construction shown in the Cluett invention and patent?

A. Parts 7 and 8.

X Q. 134. Same question as to sketch No. 3.

A. Part 3.

X Q. 135. As I understand you, you were in the employ of Rothschild Bros. & Gutmann in the years 1875 and 1876?

A. Yes.

X Q. 136. Did they make a shirt at that time like your sketch No. 1?

A. I would have to refer to the books.

X Q. 137. You don't now know or recollect that they did, I suppose?

A. I don't recollect, but they very probably made some. In fact, I know that they made for the Philadelphia Exposition in 1876; not in stock, but for sample.

X Q. 138. Were they sent to the exposition?

A. That I am not sure of.

X Q. 139. Can you point out any work or publication showing the styles of Louis XIV's time in which the shirt shown in your sketch No. 1 is illustrated or described?

A. I don't know if I can. I simply took this from masquerade dresses where you see puffed bosoms on costumes of Louis XIV's time.

X Q. 140. You mean, I suppose—you refer to costumes of modern or recent construction for masquerade purposes and not to ancient samples of construction?

916 A. Yes.

X Q. 141. What was your business in 1875 and 1876 as an employee of Rothschild Bros. & Gutmann?

A. In the early part of 1875 I made a trip for them out West and the latter part of 1875 I was employed in their manufacturing department and in 1876 as superintendent of one of their factories.

X Q. 142. In 1875 and in 1876 did Rothschild Bros. & Gutmann manufacture any gentlemen's dress shirts or bosom shirts in which a binding was used on the edge of the bosom?

A. Yes, sir.

X Q. 143. What was their construction?

A. They were of different styles, in particular the "Progress" shirt.

X Q. 144. Describe the "Progress" shirt.

A. The "Progress" shirt was so constructed as to show either a white or a colored bosom, it having in its centre a supplementary half bosom which was linked to either side, so as to enable the wearer to either turn the supplementary half bosom to either one side or the other.

X Q. 145. Describe any other styles in which a binding was used by that concern at that time.

A. It was used in another style of "Progress" shirt which had two separate bosoms, one being linked to the right-hand side of the front and one to the left-hand side of the front, and which were hinged in such a manner as to overlap each other.

X Q. 146. Can you name any other styles in which they used a binding in connection with the bosom of a shirt at that time?

A. It was used on a good many undershirts and a good many overshirts and other shirts, the styles of which I can hardly explain to you, they are so numerous.

X Q. 147. Please make sketches showing the different styles of shirts in which a binding was used in connection with the
917 bosom as made by Rothschild Bros. & Gutmann in those years and identify them by your signature.

A. I have made four varieties and marked them "A," "B," "C," and "D." The same are marked by the notary for identification.

X Q. 148. Were there any others?

A. Yes, sir.

X Q. 149. Describe them.

A. There were a good many, all made up in different styles, and it is hardly possible to describe them.

X Q. 150. Who invented the four styles of shirt marked A, B, C, and D?

A. I don't know.

X Q. 151. Do you know when they were invented?

A. About that time.

X Q. 152. Are you aware that the firm of Rothschild Bros. & Gutmann in the years 1875 and 1876 agreed, on notification by the attorney of the owners of the Cluett patent, to respect that patent and applied for a license under it?

A. No, sir.

X. Q. 153. Have you made the shirts referred to in question 19?

A. No, sir.

X Q. 154. Why not?

A. I intended to make them on Thursday, Dec. 31, 1885, and on coming to our factory in Desbrosses street I found they had shut down steam to clean the boilers.

X Q. 155. What is the meaning in your sketch No. 1 of the lower line in the figure shown in the upper left-hand corner?

A. It has no meaning. I have marked it "Ex." It was drawn for the purpose of measurement.

X Q. 156. Same question as to the upper line in the figure shown in the lower right-hand corner?

A. It has no meaning. It was also drawn for the purpose of measurement. I have marked it "Ex."

918 X Q. 157. On sketch No. 1 the part marked "3" has on its inner edge all the way around dots apparently indicating a continuous line of stitching all the way around the parts 1 and 3. Is that what those dots are intended to represent?

A. They are intended to represent the line of stitching, uniting parts 1 and 2 and binding same. It is one continuous line of stitching all the way around.

X Q. 158. As I understand sketch No. 1, the parts marked therein as parts 1 and 2 represent pleats at the two edges of an open-front bosom?

A. They are the upper and lower center of open-front bosom.

Counsel for complainants states that pending the production of the two specimens of shirt made like sketches 1 and 2 he here suspends the cross-examination of this witness.

Examination of this witness adjourned until January 7th, 1886, at 1 p. m.

Examination of other witnesses adjourned until January 5th, 1886, at 1 p. m.

919 NEW YORK, *January 5th*, 1886.

Present: Louis C. Raegener and David Tim, counsel for defendants; James A. Skilton, counsel for complainants.

JACOB BALLIN, a witness produced on the part of the defendants, having been duly affirmed, testifies:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Jacob Ballin; my residence is 58½ Rush street, Brooklyn; my age is 52 years; occupation, shirt manufacturer; a member of the firm of Ballin Bros.

Counsel for complainants objects to the swearing and the testimony of this witness on the ground that his name was not set forth in the answer.

Defendants' counsel states that by mistake this witness is described as M. Ballin. Complainants' counsel having taken the objection above stated, defendants' counsel will move to amend the answer, and, no other witness being present, the examination is adjourned *sine die*.

Counsel for complainants waives his objection with the understanding that if he sees fit to suspend the cross-examination defendants will produce the witness at another hearing for further cross-examination, and with the further understanding that M. Ballin, named in the answer as a witness, will not be produced as a witness on the part of the defendants.

Q. 2. What was your business prior to 1871?

A. It was the same—manufacturer of shirts and shirt fronts also.

920 Q. 3. Where and with whom?

A. First place of business was in Nassau street with a Mr. Necarsulmer. That was in 1854 or 1855, I think, I was in partnership with him. Next it was in Barclay street; from 1860, I believe, to 1863; then I was alone; then in Chambers street, in partnership with a Mr. Strauss. The firm was Ballin & Strauss. That was till 1867. Then the firm was dissolved, and I commenced for myself at 310 Broadway, in 1867, and after some time I took my brother in partnership with me in 1868, and he has remained in partnership with me ever since. His name is M. Ballin.

Q. 4. Please describe the shirts, both white and woolen, which you were making on or about the time that you started your present firm, or shortly before that time.

A. In the year 1868 I was making shirts with ruffled bosoms, about that time in 1867, 1868, and 1869; with ruffled bosoms, which had a binding on each side, consisting of a narrow strip of muslin or linen. This piece of muslin was folded in on one side and stitched through the binding and the bosom, and when inserted in the shirt would be stitched through the binding again and the body of the shirt. We also manufactured shirts with loosely folded bosoms, pleats, and treated the same way—bound and then sewed on the shirt. The woolen shirts which we manufactured then, and even now, were made with centre strips to represent the bosom, sometimes wide, sometimes narrow. The centre strips were cut sometimes in one, sometimes in two pieces. When cut in two pieces the under part would be half the width of the upper, and they would be bound together by a binding which went all round, and after being bound would be stitched on the shirt on one side having the single ply.

Q. 5. In the white shirts described by you in your prior answer how many rows of stitches were visible on the binding?

921 A. Two rows.

Q. 6. How many rows of stitches were visible upon the binding of the woolen shirt described by you?

A. Two rows on the side where it was stitched on the body and one on the other side.

Q. 7. What were your particular duties since you became a manufacturer of shirts in 1855?

A. At first my duties were everything connected with the business, as I was doing a small business, and up to within a year or so my duties were principally in the buying and manufacturing department.

Q. 8. How many of the white shirts described by you did you make and sell during any one week or month prior to 1870?

A. In one of those years—in 1867 or 1868—a great many; about fifty to sixty dozen a week during the season. I couldn't be exact in figures.

Q. 9. Same question repeated as to the woolen shirts described.

A. The woolen shirts, as described, were sold since the year 1863, and continue to sell up to date, though in low quantities, almost without interruption. During the war they were sold in larger quantities than now. I don't wish to state figures, but I could swear to over 200 dozen in any one year.

Cross-examination by Mr. SKILTON:

X Q. 10. What was the number of your place of business in Nassau street?

A. No. 49. That was in the years 1855 and 1856.

X Q. 11. When did you move to Barclay street?

A. In the year 1857.

X Q. 12. How long did you remain there?

A. Till 1862.

X Q. 13. Was Mr. Necarsulmer your partner up to 1862?

A. No, sir.

922 X Q. 14. How long was he so?

A. He was only a partner for one year—the first year of my going into business.

X Q. 15. Who was your partner in Barclay street?

A. I had no partner there.

X Q. 16. When did you move to Chambers street?

A. In 1862 or 1863. I am not quite positive.

X Q. 17. Were you still in business alone in Chambers street?

A. I was not. I was in partnership with a Mr. Strauss—Simon Strauss—now deceased.

X Q. 18. How long did that partnership continue?

A. Till 1867.

X Q. 19. Where is your place of business now?

A. 14 Walker street.

X Q. 20. Will you please make a sketch of the shirts with the ruffled bosoms mentioned in the first part of your answer to Q. 4?

A. I have done so, and signed the same with my name.

The same is marked by the notary for identification and dated.

X Q. 21. Will you please add a sectional view showing the shirt and bosom as they are related to each other?

A. I don't think I can draw it understandingly, and would be glad if some one would do it for me.

X Q. 22. Don't you know how the parts are related?

A. Yes, sir; I do. I can describe it.

X Q. 23. Please do so.

A. The bosom is composed of six parts: First, the ruffling on each side, to which was attached the centre piece or the upper part of the bosom; on the lower part of the bosom also a centre piece

called the hem, on which the button was put on, and on each side of the centre piece were these strips of binding. This refers, of course, to shirts open in front. If they were worn open on the back the bosom would consist only of 5 parts.

923 X Q. 24. Were the shirts referred to by you in your answer to Q. 4 open-front shirts?

A. In the most part they were open front. There were very few open-back shirts worn at that time.

X Q. 25. Will you please make a sketch also of those shirts referred to in your answer to Q. 4 and described as shirts manufactured with loosely folded bosoms?

A. The same sketch will answer for those having loosely folded bosoms, as in the place marked ruffling or puffing there were loosely folded pleats, not stitched.

X Q. 26. Were these loose pleats folded cross-ways?

A They were folded lengthways.

X Q. 27. Will you please make a sketch of the woolen shirts referred to in the same answer?

A. I have done so, and signed the same with my name.

The same is marked for identification by the notary and dated.

X Q. 28. Will you please make a sectional sketch of No. 2?

A. I can't do so very well.

X Q. 29. Have you had charge of the manufacturing of shirts for 15 or 20 years and are yet unable to make simple sectional sketches showing how the several parts of the bosom and shirt are disposed one above another?

A. I will answer to that that the skill of shirt-making is altogether independent of the art of drawing.

X Q. 30. Who during the past 15 or 20 years has gotten up the styles which have been manufactured by your firm?

A. Sometimes I got up the styles myself, sometimes the cutters, but in most cases we followed the lead—we followed the fashions.

X Q. 31. What is the meaning of the 6 longest lines in the sketch No. 1, Ballin?

924 A. Those are to represent rows of stitching, and the outside rows represent stitching as if in the shirt.

X Q. 32. Were the bosoms as shown in sketch No. 1, Ballin, set into the shirt or set on?

A. Set in and set on. It had to be sewed on the body of the shirt, but there was a piece cut out.

X Q. 33. In the sketch No. 1, Ballin, I suppose the "ruffling" or "puffing" consisted of one layer of material. I mean in the shirts made like that sketch.

A. They did; one layer.

X Q. 34. How about the centre piece?

A. The centre piece—two, and sometimes three. Just so with the hem piece.

X Q. 35. What do you mean by the hem piece?

A. By the hem piece I mean the lower part of the bosom in an open-front shirt.

X Q. 36. Have you any samples of either of the three different kinds of shirts mentioned in your answer to question 4 which were made prior to September 1, 1874?

A. I have some parts of shirts—some of those bound centre pieces—which I think were made prior to that time, but no shirts. I may have some shirt fronts yet. I am not certain until I look.

X Q. 37. Will you please make such search and produce either the shirts or parts of shirts, if any you find?

A. I will.

X Q. 38. How many rows of stitching do you say showed through the binding in the shirt made like sketch No. 1, Ballin?

A. Two.

X Q. 39. Do you understand sectional drawings when you see those made by others?

A. I think I do.

X Q. 40. Please examine Defendants' Exhibit Borchardt Dress Shirt, Sketch No. 1, and state whether the two sectional
925 drawings shown in that sketch represent the first and second forms of shirt described in your answer to question 4?

A. That is something like mine. It is just as I described it, only this has two puffings on each side and I described only one. I could have made as good a sectional drawing as that.

X Q. 41. Please do so.

A. I have done so, and have signed and dated the same.

The same is marked for identification by the notary.

X Q. 42. Do you fix the dates of manufacture as given you today from memory?

A. I fix the years from memory. The testimony I give here is entirely from memory.

X Q. 43. How long since you have seen any books or memorandums relating to your business transacted prior to January 1st, 1875?

A. Not within a year. It may be much longer.

X Q. 44. Have you got any books which show how the shirts manufactured by you prior to January 1, 1875, were made?

A. We don't keep such books.

Cross-examination suspended until next session.

Adjourned until Thursday, January 7th, 1886, at 1 p. m.

926 JACOB BALLIN produced for further cross-examination:

X Q. 45. Have you made search for samples of the shirts made prior to September 1, 1874, as requested?

A. Yes; I have made search, but cannot find them.

Sworn to before me this 7th of January, 1886.

[SEAL.] LEOPOLD TURK,
Notary Public, N. Y. Co.

JANUARY 7th, 1886.

Met pursuant to adjournment.

Present: James A. Skilton, solicitor for complainants; David Tim and Louis C. Raegener, solicitors for defendants.

Examination of the witness, ALBERT BORCHARDT, resumed by solicitor for defendants:

Q. 159. Have you made samples of the shirts as testified by you upon your examination of December 29th, 1885?

A. Yes, sir.

Q. 160. Have you those samples present here to-day?

A. Yes, sir.

Q. 161. Please produce the same.

A. Here they are, and they are made in accordance with the sketches heretofore made at the request of complainants' counsel.

(Defendants' counsel offer the three samples in evidence, and are marked, respectively, X, Y, Z, Borchardt Shirts, January 7th, 1886, L. T., N. P.)

Cross-examination continued:

927 X Q. 162. Which of the three Shirts, "X," "Y," and "Z," produced by you are made in accordance with your sketch No. 1, December 29th, 1885?

A. Exhibit "Y" and Exhibit "X."

X Q. 163. With what parts of sketch No. 1, December 29th, 1885, do the two exhibits, "X" and "Y," correspond?

A. The bosom of front of shirt.

X Q. 164. What is the object of producing two samples to exhibit the shirt shown in sketch No. 1?

A. To show two of the different ways in which the binding was stitched to the shirt.

X Q. 165. Please point out how and where these different ways are shown in the Exhibits "X" and "Y."

A. Exhibit "X" is intended to represent sketch on the lower right-hand corner of sketch No. 1, and Exhibit "Y" is intended to represent sketch on upper right-hand corner of sketch No. 1.

X Q. 166. Do these exhibits represent these sketches according to the intention as stated in last answer?

A. Yes, sir.

X Q. 167. By whom were these two exhibits, "X" and "Y," made—by yourself or by somebody else under your direction?

A. By both. I made part and somebody else made the other part.

X Q. 168. What part did you make?

A. Half of everything to enable me to show the other party to finish it up.

X Q. 169. What you mean is, I suppose, that you made up and attached to the body one-half of the bosom in each exhibit. Is that so?

A. Yes.

X Q. 170. Did you make or have made "Defendants' Exhibit Z" since the request made by defendants' counsel or did you take it out of stock already made prior to that request?

A. Yes; I took this shirt out of stock already made, as it represented my sketch No. 2.

928 X Q. 171. You produce "Defendants' Exhibit Z," then, as a sample shirt made in accordance with your sketch No. 2, dated December 29th, 1885?

A. Yes, sir.

X Q. 172. Then, as I understand you, you have intended to testify and to say in answer to the questions put to you in this case, both on the direct examination and cross-examination, and particularly in the answer to Q. 13, that the shirts made by you or with your knowledge prior to September 1, 1874, were made like these three exhibits, "X," "Y," and "Z," here produced and put in evidence to-day; is that so?

A. Yes, sir.

X Q. 173. You include, I suppose, the shirts made and sold by Messrs. Bucki & Necarsulmer, as testified to by you?

A. Yes, sir.

X Q. 174. And those made by Messrs. Blum & Weil?

A. Yes.

X Q. 175. And those made by Rothschild Bros. & Gutmann?

A. Yes, sir.

Counsel for complainants states that, with the exception of further action in connection with the other sketches made by this witness, the cross-examination is here closed.

Counsel for complainants also states that in connection with the testimony of the witness, Jacob Ballin, he reserves the right to take further action regarding the sketches made by the witness Ballin and not yet offered in evidence.

Redirect examination by Mr. RAEGENER:

629 R. D. Q. 176. Who had charge of the manufacturing department and the making of designs and patterns while you were with Bucki & Necarsulmer, Moses Blum & Weil, and Bothschild Bros. & Gutmann?

A. When I was with Bucki & Necarsulmer Mr. Bucki had charge of the manufacturing department, and what few designs were made in these days he got up. When I was with Rothschild Bros. & Gutmann Mr. Rothschild had charge of the manufacturing. When I was with Moses Blum & Weil I had charge of the manufacturing and got up styles.

R. D. Q. 177. While you were with Rothschild Bros. & Gutmann did you ever hear of or did you know that your firm was threatened with suit for infringing the Cluett patent? Were you ever consulted concerning the question?

A. No, sir.

R. D. Q. 178. While you were with Rothschild Bros. & Gutmann did you have the knowledge that you made the shirts described by

you in your previous testimony while in the employ of Bucki & Necarsulmer?

A. Yes, sir.

R. D. Q. 179. What other business was Mr. Gutmann, of the firm of Rothschild Bros. & Gutmann, engaged in at the time he was a member of this firm?

A. In the coal business.

R. D. Q. 180. Where is Mr. Bucki, of the firm of Bucki & Necarsulmer?

A. In Jacksonville, Florida, most of the time.

Recross-examination by Mr. SKELTON:

R. X Q. 181. Then when you were in the employ of Bucki & Necarsulmer, and immediately after that in the employ of Rothschild Bros. & Gutmann, you did not have charge of the
930 manufacture or getting up of styles of shirts made by them; is that so?

A. When I came to Bucki & Necarsulmer I came there, as stated before, as errand boy and left as superintendent of the manufacturing department, and when I came to Rothschild Bros. & Gutmann I came there as shipping clerk and general superintendent and left as superintendent of one of their factories, as stated before, only being enabled to get up styles later than the year 1874; only getting up styles later than 1874.

R. X Q. 182. Did you not say in your answer to R. D. Q. 176 that Mr. Bucki and Mr. Rothschild had charge of the manufacturing departments of their respective concerns while you were in the employ of those concerns?

A. Yes, sir.

R. X Q. 183. Will you please explain, then, what you really mean by your answers to the questions on this subject.

A. They, having charge of the manufacturing department, told me what goods to make, and I, as superintendent, seen that the goods were made according to their orders.

Examination closed, with the reservations previously referred to.

ALBERT BORCHARD.

Sworn to before me this 7th day of January, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

931 Testimony taken on the part of the defendants, under and pursuant to the 67th rule of the Supreme Court, as amended, before John M. Landon, Esq., a standing examiner of said court, at the city of Troy, county of Rensselaer, State of New York, the 16th day of February, 1886.

Present: James A. Skilton, Esq., counsel for complainants, and Louis C. Raegener, Esq., counsel with David Tim, Esq., solicitor for defendants.

Myron E. Clark, a witness produced on behalf of defendants, being first duly sworn and examined by Louis C. Raegener, Esq., deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Myron E. Clark; 36 Chatham, New York; Columbia county; merchant.

Q. 2. What branch of business are you at present engaged in?

A. Hats, caps, and men's furnishing goods.

Q. 3. What do gent's furnishing goods consist of?

A. We keep a complete stock of gent's furnishing goods, including gent's shirts.

Q. 4. How long have you been connected with the shirt business?

A. Since August 1st, 1868.

Q. 5. In what capacity were you at this time, August, 1868, engaged in the shirt business?

A. I was clerk for Hiram M. Ford.

Q. 6. What were your duties when you were so engaged as clerk for Hiram M. Ford?

A. Well, the usual duties pertaining to the retail business, and at the same time I run a sewing-machine in connection with the business. I sold goods of all kinds; was salesman; had to take care of the stock.

Q. 7. How long were you engaged as clerk for Hiram M. Ford?

A. I was with him until March, '78.

932 Q. 8. While you were with Mr. Ford what was his business?

A. He kept a general hat and cap store and gent's furnishing goods.

Q. 9. What did the gent's furnishing goods consist of?

A. The general line, including shirts, and his business also was a manufacturer of shirts to order.

Q. 10. Was he a manufacturer of shirts during the entire time that you have testified to as having been in his employ?

A. He was.

Q. 11. Where was his place of business at that time?

A. Main street, Chatham.

Q. 12. Please look at the shirt now shown you, marked Defendants' Exhibit A, and also containing the signature of M. E. Clark, and tell us who wrote the words "M. E. Clark," and whether you have ever seen that shirt before and what relation it has to shirts manufactured by you while in the employ of Mr. Ford.

A. I wrote the signature and I have seen the shirt before. This shirt was cut by H. M. Ford personally; I can't tell when. Speaking generally, it is the same shirt he always made.

Q. 13. Referring to your last answer, when was this kind of shirt made by Ford while you were with him—what year?

A. During all the time I was with him, beginning with 1869.

Q. 14. In what quantities?

A. I can't answer that in any stated amount.

Q. 15. Did you make more than one dozen a year?

A. Yes, sir.

Q. 16. For whom did you make such shirts?

A. For his customers—Mr. Ford's.

Q. 17. When was it that you first heard of the bound-bosom shirt?

933 A. Not until after we made them.

Q. 18. You mean you never heard of a bound-bosom shirt other than those made by you while with Ford until after the time that you made these shirts like Defendants' Exhibit A while in Ford's employ?

A. Not until we saw an advertisement of a patent bound-bosom shirt in the Gent's Furnishing Trade Review, a New York publication.

Q. 19. Whose shirt was that advertised?

A. George B. Cluett, Bro. & Company; bound-bosom shirt, I think.

Q. 20. When was that?

A. It was about the first of 1875.

Q. 21. During what years did you make shirts like Defendants' Exhibit A? Name the year.

A. From 1869 during every year up to now, except that we have repeatedly changed the shape of the bosom.

Q. 22. Did you ever make any experiments prior to making shirts like Defendants' Exhibit A? If so, please tell us what experiments?

A. That is a hard question for me to answer, to get it into any shape, because Mr. Ford did all the cutting and all the planning and I simply ran the machine in making a portion of the shirt. We experimented in order to get a smooth finish, and finally adopted a round-cornered bosom, because it gave a continuous binding. Before that we bound the two edges and put the bottom fast with a strip.

Q. —. Please describe in words the exact way in which you made shirts like Defendants' Exhibit A in 1869 and in subsequent years.

A. I can't specify the shape of bosom made in 1869 nor I can't specify the years in which the changes of shape were made in the bosom. We bound the bosom, using a bias binding, in 1869 and during all the years subsequent. We bound the bosom with a bias strip the same in result that this is. We put on the same as
934 in Defendants' Exhibit A, and the shirt, in general cut, design, and pattern, is the same shirt except as regards shape of bosom.

X. 27. How came you to appear here to-day?

A. I was subpœnaed by Mr. Mambert on Saturday last, and I received my witness fee.

Direct examination closed.

Cross-examination by JAMES A. SKILTON:

X Q. 25. What is the full name of Mr. Mambert, who subpœnaed you?

A. I don't know.

X Q. 26. Did you ever see him before?

A. Yes, sir.

X Q. 27. Where and when?

A. I knew him when Mr. Ford bought goods of him, while he was one of the firm of Travell & Mambert, formerly of Troy.

X Q. 28. Does he live in Troy now? If not, where?

A. I don't know. In business he is connected with E. Mack & Company, of Albany.

X Q. 29. What is his business now?

A. I don't know.

X Q. 30. Do you know what his first name is?

A. I do not.

X Q. 31. When did you first know him—what year?

A. I can't tell you.

X Q. 32. Are you unable to fix the date when you first saw him?

A. I am.

X Q. 33. How many times have you seen him in all?

A. I can't specify any number—a good many times, several, or whatever would cover it.

X Q. 34. What was the business of Tyrrell & Mambert, and what goods did Mambert sell?

935 A. They claim to be manufacturers of collars and cuffs, and did sell Mr. Ford linen colors and cuffs, or Mr. Mambert did, rather.

X Q. 35. About how long ago was it that you first saw Mr. Mambert?

A. I think at least seven years ago.

X Q. 36. Could it have been as much as ten?

A. I think not, but am not positive.

X Q. 37. How does it happen that this shirt, Defendants' Exhibit A, has on the tab of it the name of J. H. Mambert?

A. It was made for J. H. Mambert, a farmer, at that time in Ghent, adjoining our town, Chatham, and he never called for it.

X Q. 38. In whose possession has it been, since he never called for it?

A. On March 1st, 1880, it was sold by H. M. Ford to Smith & Clark. On March 1st, 1882, it was sold by Smith & Clark to Myron E. Clark and was in my possession from that time until September, 1885, when I sold it to Mambert referred to as above—the Mambert who subpœnaed me.

X Q. 39. Have you any other shirts of this description in your possession?

A. Yes, sir.

X Q. 40. How many?

A. I can't tell.

X Q. 41. Was this the only shirt manufactured for the old farmer, Mambert?

A. He ordered two. One he called for and the other he never did call for.

X Q. 42. Two such shirts, then, were too much for him?

A. I don't know his reason for not calling for it.

X Q. 43. Are the other shirts in your possession exactly like this in every respect, as to shape of bosom as well as to other respects?

A. All those made by us to order are made the same in style.

X Q. 44. I suppose you are referring to shirts now that have
936 been made by you since Mr. Ford sold out, as being now in your possession, are you not?

A. Not entirely. I have a few made by Ford in stock.

X Q. 45. Made by Ford when?

A. I can't give the exact date, but before 1880.

X Q. 46. How long before?

A. I don't know.

X Q. 47. As I understand you, the first shirt in which a binding was used did not have a rounded bottom or lower edge, but were cut square across the bottom. Is that so?

A. Yes, sir.

X Q. 48. What other changes were made in the shape of the bosom by Mr. Ford or during his term of business?

A. I don't know that I can specify them all. We made at one time a bosom known as the "coffin-shape bosom," and none of the others had a name that I knew of. We made one with a double curve on each edge and it was square across the bottom, and the coffin shape was also square at the bottom.

X Q. 49. About what time did you make the coffin-shape bosom?

A. I can't tell you.

X Q. 50. Of which styles did Mr. Ford, prior to 1880, make the greater number of these shirts?

A. I think of the present shape or shield-shape bosom, like Defendants' Exhibit A.

X Q. 51. I presume that this last shape was the final shape or the last in the order of development, was it not?

A. It was.

X Q. 52. About how many were there in all different shapes, should you say?

A. At least four.

X Q. 53. Why were these changes made?

A. I can't tell you, except to improve on the finish of the shirt. I don't know of any other reason.

937 X Q. 54. What was the very first form used or experimented with?

A. I can't tell you.

X Q. 55. Was it a square bosom?

A. I think we first tried a square bosom and rounded the lower corner in order to receive the binding, but I am not positive.

X Q. 56. Had you ever seen a separate bosom or dicky bound on the edge at the time when Mr. Ford made the first of these shirts with a binding on the edge of the bosom?

A. No, sir.

X Q. 57. How many of the forms of shirts did Mr. Ford make—the square and the coffin form, etc.?

A. I can't tell.

X Q. 58. I suppose these preliminary forms, square and coffin shape, were experimental, were they not, to see how the thing would work?

A. I can't say, as some of them had been used by Mr. Ford before I went with him.

X Q. 59. My question relates to what you have testified to as having been done by Mr. Ford and within your knowledge.

A. I don't know that they were experimental. We made shirts and used a bosom to satisfy customers. We didn't always use the same shape of bosom in all goods manufactured at any specified time.

X Q. 60. So far as you know, not many were made with a double curve on each edge, were there?

A. I think but a few compared with the shield shape.

X Q. 61. When was the shield shape adopted?

A. I can't tell the exact date.

X Q. 62. Have you any books in your possession containing any record of the dates of manufacture and describing the style of manufacture in shirts in which the binding was used back of 1880?

A. I have not.

938 X Q. 63. Have you any books of your or of Mr. Ford's or do you know where there are such books?

A. I do not know where there are any books containing a description.

X Q. 64. You are depending, then, entirely upon your memory as to what occurred prior to 1880?

A. I am.

X Q. 65. Is your memory in regard to dates accurate?

A. It is.

X Q. 66. Was Mr. Ford engaged in business when you went to him first?

A. He was.

X Q. 67. Where had you lived prior to that time?

A. In Chatham.

X Q. 68. Did you know anything about the style of shirts made by Mr. Ford prior to the time you went into his employ?

A. I did not.

X Q. 69. How old were you when you went into his employ?

A. Eighteen years old.

X Q. 70. In what year was it?

A. August 1st, 1868.

X Q. 71. What part of the shirts did you make that were cut out by Mr. Ford prior to 1875—January?

A. I made the bosoms, put on the yoke and back piece, made the bands, and did the hemming.

X Q. 72. Did Mr. Ford put on the binding?

A. Only for a very short time after I went with him.

X Q. 73. Please make a diagram or sketch showing a sectional view of the square-bosom shirts made by Mr. Ford while you were in his employ, representing exactly how the different layers, the binding, the stitching, and the shirt body were disposed or arranged.

939 A. I have done so and marked the same "Clark's Sketch No. 1," with my signature for identification.

X Q. 74. Now please draw on the back of the same piece of paper an outline of the shape of the bosom or an elevation of it—the square bosom of which you just made a sectional view.

A. I have done so and marked the same "Clark" Sketch No. 2, with my signature for identification.

X Q. 75. Now make two similar sketches of the coffin-shape bosom.

A. I have done so and marked the same "Clark's Sketch No. 3" and "Clark's Sketch No. 4," respectively.

X Q. 76. The witness will please do the same thing representing the shirt spoken of as having a double curve on each edge.

A. I have done so and marked the same "Clark's Sketch No. 5" and "Clark's Sketch No. 6," respectively.

X Q. 77. Please make a sketch of the Defendants' Exhibit A.

A. I have done so and marked the same "Clark's Sketch No. 7" and "Clark's Sketch No. 8," respectively.

X Q. 78. Have these eight sketches been made in strict compliance with X Q. 73?

(X Q. 73 again read to the witness.)

A. They have, to the best of my ability as an artist.

X Q. 79. Have you indicated on them all the lines of stitching actually used in the shirts represented in the sketches made?

A. I have not.

X Q. 80. Please add any lines of stitches omitted in the sketches.

A. I can't, because we did not always put two rows of stitching through the binding. Sometimes we use one row and at others two rows through the binding and through the body of the shirt.

940 X Q. 81. Do you mean that you sometimes use one of the two lines of stitches shown in the sectional sketches and sometimes both of them?

A. No, sir; I don't mean that; we sometimes use both of them, as shown there.

X Q. 82. Please explain, then, what you do mean.

A. The one row in the sketch going through both binding and shirt body was always used, and we sometimes added a second row through all—through binding, bosom, and the shirt.

X Q. 83. I observe that you have not indicated any lines of stitching upon the front view or elevation of the different shirt bosoms; please add any line or lines of stitching which were actually used in these four forms of shirt in such a way as to show in front view.

A. I have added on two sketches two lines, on two sketches one line. We sometimes used the one line, as shown, and at other times the two lines, as shown; in either case the one or two lines of stitching passes through the binding and the plies of the bosom into the body of the shirt—through the body of the shirt.

X Q. 79 *A*. Have you now shown all the lines of stitching that were used in the manufacture of the Ford shirts like Defendants' Exhibit A, and the three other preliminary forms mentioned by you?

A. No, sir; I have not. In relation to the edge I have, except at the bottom of the two square bottoms. Those were set on with another piece not represented.

X Q. 80 *A*. You said "No, sir," in the last answer. What did you mean?

A. I meant I had not shown the pleats of the bosom and the lines of stitching holding them, but I had shown all those used on the edge or at the edge of the bosom in arranging the binding and attaching the bosom, except at the bottom of the two square end bosoms, as mentioned in answer to X Q. 79.

941 X Q. 81 *A*. I understand that in these sketches you have represented exactly how the different layers of the bosom, the binding, and the shirt body were disposed or arranged, and also all the lines of stitching employed in making or forming the edge of the bosom and securing the same to the shirt body. Is that so?

A. It is, with the exceptions made above; I mean these would be complete by adding a piece at the bottom of sketch No. 4 and No. 6, and adding the pleating stitches in the centre; and also that the lines of stitching represented in sketches 1, 3, 5, and 7 should go through the plies of the bosom as well as the binding and the body of the shirt. The reason for not showing it in those diagrams was in order to leave the marks representing the binding more distinct.

X Q. 82 *A*. In the bosoms of the earlier shirts and forms made by Mr. Ford while you were in his employ, how many pleats were formed in the front layer of the bosom?

A. Anywhere from one plain pleat to thirty-nine.

X Q. 83 *A*. Were not all the earlier ones formed with at least three pleats—the earlier ones, the square, coffin-shaped, and double-curve varieties?

A. I don't know beyond my coming in his employ anything about that; but from the spring of 1869 we made colored shirts or fancy shirts with but one pleat, and that is the first positive knowledge that I have of binding a shirt bosom; those I bound personally with bias strips of the same material as the shirt was composed. My point of positiveness in regard to date is, on April 5th, 1869, east side of Main street was nearly destroyed by fire. During the previous winter we made a large lot of colored shirts, and the only ones

we made for stock purposes while Mr. Ford occupied the store on that side of the street.

942 X Q. 84. Then, as I understand, you made colored shirts with less than three pleats in the bosom at that time, but not white shirts?

A. We made colored shirts positively, and I think we made white shirts, but am not positive.

MYRON E. CLARK.

Adjourned until 10.30 a. m., February 17, 1886, at the same place.

TROY, *February* 17, 1886.

Met pursuant to adjournment.
Present: Parties as before.

Cross-examination of MYRON E. CLARK resumed by Mr. SKILTON:

X Q. 85. When and from whom did you purchase the business started by H. M. Ford?

A. I first purchased of Smith & Clark on March 1st, 1882.

X Q. 86. When did Smith & Clark purchase the business?

A. On March 1st, 1880.

X Q. 87. Do you desire to make any changes in the eight sketches made by you yesterday, or are they correct as they now stand as answer to cross-question 73 and other following questions relating thereto?

A. The diagrams are not correct as is shown by answers made to cross-question 81 in my testimony of yesterday.

X Q. 88. In the eight sketches made and in answer to X Q. 81 in addition have you shown and mentioned all the lines of stitches, the different layers of the bosom, the binding, and the shirt body, just as they were disposed or arranged in the shirts of which you have testified?

A. I have.

X Q. 89. It is not necessary, then, to add anything more, either in the sketches or in description—verbal—in order to repre-
943 sent the shirts referred to completely and perfectly so far as the bosom and shirt front are concerned?

A. I can find nothing necessary to add.

X Q. 90. In the sketches made showing the front view you have not designated the location of the line on which the four sectional views are supposed to be cut. Will you now please locate those lines on those four views?

A. I have so arranged them.

X Q. 91. Please mark those lines in each view with the letters *x x* at each end of the line.

A. I have done so.

X Q. 92. When did you last see Hiram M. Ford?

A. I saw him about an hour ago—about 10 o'clock.

X Q. 93. Where?

A. At the Mansion House, Troy.

X Q. 94. When and where did you last see Mr. Ford before to-day?

A. I saw him last night about 7 o'clock at the Mansion House, Troy.

X Q. 95. When and where did you have your next previous interview with Mr. Ford?

A. I took dinner with him yesterday at about 1 o'clock at the Mansion House.

X Q. 96. The next before that—that is, when and where?

A. I saw him on Sunday last at Chatham.

X Q. 97. The next previous time and place?

A. On Saturday last at Chatham.

X Q. 98. Next previous to that?

A. I can't tell.

X Q. 99. Why not?

A. I can't locate the date.

X Q. 100. Give us about the date, then.

A. Mr. Ford resides in Chatham, and I usually see him when he is at home—when he comes to Chatham—and have seen him during all the time he has been a traveling salesman, nearly every time he visits Chatham.

944 X Q. 101. Have you had any conversation with Mr. Ford on the subject of which you are testifying here since last night?

A. I have not.

X Q. 102. Did you have any conversation last evening on the subject with him?

A. I did.

X Q. 103. When did you have your first conversation with him in reference to the shirt, Defendants' Exhibit A?

A. I can't tell when.

X Q. 104. As near as possible, when?

A. At some time after September, 1885.

X Q. 105. Did he say anything to you at that time or has he subsequently said anything to you about his arrangement and expectation for receiving a thousand dollars for his testimony in this cause in case of success?

A. He has.

X Q. 106. When did he first mention that subject?

A. I can't tell when, but at some time after I sold the shirt to the Mr. Mambert who subpœnaed me.

X Q. 107. How many times has the matter of the one thousand dollars been a subject of conversation between you?

A. I can't say that he has mentioned it more than once.

X Q. 108. Please state what he said about it at that time.

A. He told me if the suit was successful, or, in other words, if the patent was broken, he was to receive one thousand dollars from some one, but I don't know who.

X Q. 109. Did you believe his statement when he made it?

A. I had no reason to disbelieve it.

X Q. 110. Do you believe it now?

A. I believe he told me so, and I have no knowledge to the contrary.

945 X Q. 111. Question repeated.

A. I do believe it.

X Q. 112. What else did he say at the time of your first conversation with him after you had sold the shirt to Mambert in reference to the shirt itself and this suit? Please give me a detailed statement of what he said and also what you said in reply. I want the whole of it.

A. I can only remember Mr. Ford asked me where Mambert got the shirt. I told him I had sold it to Mambert. He asked me how much I received for it. I told him a dollar and twenty-five cents. He told me that I was a big fool; I ought to have had at least five hundred dollars for it. I told him I considered it a good sale to get rid of the old shirt, and I don't know of any other conversation in relation to the shirt.

X Q. 113. Do you agree with his statement that you were a big fool for selling the shirt for $1.25 if he is to get $1,000 for his testimony in reference to the shirt?

A. I do not.

X Q. 114. Why not?

A. I felt satisfied to dispose of the shirt at the dollar and a quarter; beyond that I had no interest in the matter whatever.

X Q. 115. Have you always felt satisfied with that sale ever since?

A. I have.

X Q. 116. Why did you wait for a subpœna compelling your attendance here to testify instead of appearing without it?

A. I had no way of knowing my testimony was wanted.

X Q. 117. Would you have come voluntarily without the subpœna?

A. No, sir.

X Q. 118. In answer to cross-question 102 you said you
946 had a conversation with Mr. Ford on the subject as to which you are here testifying. What was said by Mr. Ford and yourself in that conversation? Give it in detail.

A. I have conversed with him several times. I don't think I can mention any particular conversation in regard to this case. He wanted to know if they had done with me and when I thought they would be through, and a great many questions of that kind in relation to my being on the stand yesterday, but in direct relation to testimony we had no conversation.

X Q. 119. In the first part of the last answer you said, I have conversed with him several times. Please give the substance of those conversations, and mention the place where they occurred, or places.

A. The conversations have nearly all—and I think all—occurred in my store at Chatham. It must be more than a year ago, the first relating to this case, in which Mr. Ford told me he thought a suit would possibly be started, and if so I would undoubtedly be called upon to testify. I think the next that I had any conversation with

him was after I had made affidavit, which was in September, 1885, and in those conversations since September I have inquired of him repeatedly if any suit had been commenced, and recently he told me suit had been commenced and he had been sworn. I am unable to repeat the conversation *verbatim*.

X Q. 120. At the first conversation at about a year ago, what seemed to be Mr. Ford's object in mentioning the subject of a probable suit?

A. The only object implied was simply to inform me of it, as I was making the bound-bosom shirt at that time.

X Q. 121. You understood, did you not, from his conversation at the time when he learned that you had sold the shirt to Mambert, Defendants' Exhibit A, that he was dissatisfied with your action in so doing?

947 A. I so considered it, and still with our long acquaintance and familiarity I considered it as much a joke as an expression of opinion.

X Q. 122. Did he at the time refer to his previous warning to you of a year ago as to the prospective suit?

A. I don't know.

X Q. 123. Didn't he allude to it?

A. I can't tell. The possible suit was talked of repeatedly, and I can't locate the conversation.

X Q. 124. What seemed to be his object in talking it over with you "repeatedly"?

A. I know of no reason, except as it would occur in ordinary conversation, being a matter that we both felt interested in.

X Q. 125. Did you not gather from these various conversations that it was a matter in which he expected to make something out of the production of evidence for defendants in such a suit, and that he thought you might share in what was made out of it?

A. I will have to give two answers to that question: To the first part, during the later conversation I was led to believe he would make the $1,000 spoken of. To the last part of the question, no. I mean to my sharing in it I say no; positively no. There was no reference made whatever.

X Q. 126. What seemed to be the object of Mr. Ford in discussing the subject with you at the time of the first conversation and of the other earlier conversations mentioned?

A. I can't tell his motive. The first conversation that I remember wherein a suit was spoken of Mr. Ford told me of some shirt manufacturer in Troy where he went to be measured for shirts. The name of the concern I don't know. While measuring him for shirts the party measuring him discovered that he had on a bound-bosom shirt on the tab that said "Myron E. Clark, shirt manufact-
948 urer, Chatham, N. Y." This party asked him where he got a bound-bosom shirt; he showed him the tab. This party told Ford that they would like to manufacture the same shirt, but were afraid of prosecution. Mr. Ford said he told them that they needn't fear a prosecution, as he made the bound-bosom shirt several years before it was patented. Mr. Ford's opinion was, as expressed

in that conversation, that they would undoubtedly manufacture the bound-bosom shirt, and if so a suit would be the outgrowth. His telling it to me was simply as a matter of news, as he knew I was acquainted with the facts of the shirt as well as himself, and I know of no other object that he had at the time. That is the first conversation in which anything relating to a lawsuit was mentioned that I know of.

X Q. 127. Did that conversation occur right after the interview with and conversation with the Troy concern mentioned?

A. I think it did.

X Q. 128. When did this conversation with you take place?

A. I don't know.

X Q. 129. Was it more than a year ago?

A. Yes, sir.

X Q. 130. And prior to the conversation of about a year ago?

A. I think it was.

X Q. 131. How long prior?

A. I can't tell.

X Q. 132. Did you understand it was a recent occurrence at the time of the conversation with you?

A. I did.

X Q. 133. Did you have any idea at that time or did Mr. Ford express any opinion or fear that if the Troy concern was sued you might also be sued for the infringement of the same patent?

A. He did not; I never have had.

949 X Q. 134. If the Troy concern was sued for manufacturing the same shirt you manufactured, did it not occur to you that that suit might affect your case as well as that of the Troy concern?

A. I had thought of the matter but had never considered it seriously, knowing the facts of the manufacture of the shirt.

X Q. 135. It had then occurred to you that you might be sued for the same manufacture, for manufacturing the same shirt, had it not?

A. It had.

X Q. 136. What is the name of the paper, publication, or review in which you first saw mention of the bound-bosom patent of the Cluetts?

A. "The Gents' Furnishing Trade Review," published in New York.

X Q. 137. Is that the exact title of the review?

A. To the best of my memory, it is.

X Q. 138. Please state how you happened to discover it.

A. Mr. Ford subscribed for this publication, and the Monarch bound-bosom shirt was advertised in that publication. I read it there.

X Q. 139. Who discovered it first, you or Mr. Ford?

A. I don't know.

X Q. 140. He saw it, as well as yourself, did he?

A. He did.

X Q. 141. Did you and he see the advertisement more than once in that review?

A. I think the card was contained in every issue of the "Trade Review" for several years, but am not positive; I saw it repeatedly in the "Review."

X Q. 142. You saw it in the copy subscribed for by Mr. Ford, did you?

A. I did.

X Q. 143. When did you first see it?

A. I can't give the date, but think in 1875.

X Q. 144. What was said about it at that time between you and Mr. Ford?

950 A. When we discovered that the bound bosom had been patented Mr. Ford felt that he had made a great mistake in not having applied for a patent for himself years before; but my judgment was at the time that it wasn't worth a penny to him or anybody else; and that conversation in regard to Mr. Ford's applying for a patent was talked over a great many times.

X Q. 145. What was your opinion that it wasn't worth a penny based upon?

A. There was so many ways to finish the edge of the bosom that I didn't think that any one would pay a royalty for the privilege of using the binding.

X Q. 146. You mean so many other ways in which the binding was not used, I suppose?

A. I do.

X Q. 147. In other words, you did not consider that the binding as applied by Mr. Ford to the edge of the bosom was an improvement which any other shirt manufacturer would consider of value, I suppose?

A. I did not.

X Q. 148. In fact, then, you didn't consider it any improvement on the old methods of attaching a bosom to a shirt-body. Is that so?

A. I did consider it an improvement, being less bulky than the old idea and giving a better finish, but I did not consider it was enough of an improvement that a manufacturer would be willing to pay for it.

X Q. 149. What did you understand to be the objects accomplished by it as an improvement—I mean actually accomplished as you were applying the binder at that time—that is, 1875?

A. It gave us a better finish, and after using the binding for some time we found the binding covering the plies of the bosom protected the front or body of the shirt so it did not crack or cut at the edge of the bosom.

951 X Q. 150. Is that all? Was there no other object accomplished, so far as you understand it?

A. After the adoption of the continuous binding we could finish a bosom quicker. That is the only other advantage that I know of.

X Q. 151. Are you still unable to fix the date of the continuous binding?

A. I am.

X Q. 152. What name did you give Ford's shirt?

A. When I commenced work for Ford, 1868, he was making

Ford's perfect-fitting French-yoke shirt; at least, that was what he advertised it. We never had any printed name or label for it.

X Q. 152½. Did the Ford shirt with a binding go under that name?

A. It did.

X Q. 153. You didn't call it, then, a bound-bosom shirt?

A. No, sir.

X Q. 154. I suppose, then, the first time you ever saw the term bound-bosom shirt was in the Cluett advertisement testified about in the Trade Review?

A. I think it was.

X Q. 155. Have you applied the term bound bosom to this shirt since that time, ever?

A. I have not.

Recess till 1.45.

Cross-examination resumed at 1.45:

X Q. 156. In your answer to the 149th cross-question you say that the binding protected the front or body of the shirt so that it did not crack or cut at the edge of the bosom. Please explain how the binding affords such protection?

A. I don't know that I can give you mechanically any reason. The binding covering the edges gives it a smooth edge, so that when the front is wrinkled the front or the body of the shirt comes in contact with the smooth binding instead of the sharp edges of the cloth.

952 X Q. 157. And, as I understand you, this is accomplished because it is less bulky than the old idea?

A. Yes, sir.

X Q. 158. Can you now mention any further object or objects accomplished by the Ford shirt made like Defendants' Exhibit A that were recognized by you prior to 1880 as being accomplished by the so-called binding of the Ford shirt?

A. I don't know of any other benefit.

X Q. 159. I notice on the Defendants' Exhibit A, below the placket opening, a stamp representing a shirt, with the words and letters "H. M. Ford, shirt-maker, Chatham village, New York." When and by whom was that stamp made?

A. I don't know.

X Q. 160. By what device was the impression made upon the shirt, Defendants' Exhibit A, and by whom?

A. It was made with a rubber stamp, but I can't tell who by.

X Q. 161. Who made the rubber stamp?

A. I don't know.

X Q. 162. Did you make the shirt, Defendants' Exhibit A, yourself?

A. I can't answer positively to any particular shirt, but presume I made a portion of said shirt, as I did make a portion of all shirts manufactured by Ford after 1869.

X Q. 163. When was the particular shirt marked Defendants' Exhibit A made?

A. I can't tell you.

X Q. 164. Was it one of the shirts sold by Ford and purchased by Smith & Clark?

A. It was.

X Q. 165. It was made, then, prior to 1880, was it?

A. It was.

X Q. 166. Was there no charge or entry made in the books at the time when Mr. Mambert gave the order for the two shirts?

953 A. The order was put in the book with the other orders, but the book was never dated—never any date ever kept of any shirt orders received.

X Q. 167. Where is that book?

A. I don't know.

X Q. 168. How recently have you seen it?

A. I don't know that I have seen it since the first of March, 1880.

X Q. 169. Were the two shirts charged to Mr. Mambert on the books after they were made or at any time?

A. They were not.

X Q. 170. Didn't Mr. Ford keep books of account, in which goods were charged?

A. He did.

X Q. 171. Why were not these shirts charged?

A. It did not constitute a charge until they were dilivered.

X Q. 172. Well, you say one was delivered. How about that?

A. He undoubtedly paid for it when he took it, as there is no record of account with the said Mambert.

X Q. 173. You remember that he paid for it when he took it?

A. I do not.

X Q. 174. Then that fact is a mere inference, is it?

A. I assume that from the fact that there is no charge made.

X Q. 175. Have you examined the books to see whether any charge was made or any record made which would fix the date of the manufacture of these two shirts?

A. I did examine one book—the only one I could find of Ford's old books—at the time I sold the shirt to Mambert, who subpœnaed me, and in that search I could find no record.

X Q. 176. Have you found or seen any record in any books of the manufacture of these two shirts ordered by Mr. J. H. Mambert?

954 A. I have found no such record; but at the time the order was given and while the shirts were being made the order was in the shirt book.

X Q. 177. How do you know that?

A. Because I saw it there.

X Q. 178. When did you see it there?

A. I can't tell you.

X Q. 179. How do you know you saw it there then?

A. Because I saw the order of all the shirts made by Ford while I was in his employ.

X Q. 180. But you have no independent recollection of seeing it,

apart from the fact that you suppose you did or infer that you did, from the fact stated in your last answer?

A. That is the only recollection of it I have.

X Q. 181. Do you call that a recollection?

A. I do.

X Q. 182. Isn't it an inference rather than a recollection?

A. I think not. The fact of the shirt having been made for J. H. Mambert shows conclusively that the order must have been received.

X Q. 183. What I want to know is whether such an order was entered, and whether you distinctly recollect seeing that order after it was entered or written in the book independent of all inferences that you must have seen it, &c.?

A. I cannot locate this order as distinct from any other order. I have no distinct recollection of seeing the entry. I can distinctly remember having seen it.

X Q. 184. Did you not say a moment ago that you could not distinguish this order from among other orders as one that you recollected having seen after it was entered in the book?

A. By misunderstanding the question, I did so answer.

X Q. 185. Then, as I understand you, you now have a dis-
955 tinct recollection of having seen the entry of the Mambert order for these two shirts of which the Defendants' Exhibit A is one?

A. Yes, sir.

X Q. 186. When did you see it?

A. I can't tell you.

X Q. 187. Why can't you tell?

A. I can't locate the date.

X Q. 188. Please repeat the order referred to just as it was entered in the book and as you saw it after its entry. I want the exact entry and as you are willing to swear that it was made.

A. It is impossible for me to answer as it is recorded in the book.

X Q. 189. Why, if you have a distinct recollection of seeing it, why can't you repeat it?

A. Because the man's name is entered first; immediately following it is his measure as taken at the time; that measure I can't repeat; I don't know it.

X Q. 190. Will you please explain the misunderstanding referred to in your answer to the 184th cross-question.

A. I understood your question to mean in regard to my making a positive statement in regard to finding this measure at a later date. I distinctly remember, since recalling the matter to mind, that the name J. H. Mambert, with the same stamp as printed on tab at bottom of bosom, was also printed in the order book opposite the order, as was our custom for a long time with all orders, which custom has since been dropped.

X Q. 191. Did you have a rubber stamp made with Mr. Mambert's name on it for that purpose?

A. No, sir.

X Q. 192. How was the stamp made up, then? I mean the device by which the stamping was done.

A. We used ordinary type—metal type—same as used in printing offices; set them up as we needed any name, as we needed to print any name.

956 X Q. 193. I did want a positive statement in regard to finding the entry of this Mambert order—that is, a positive statement whether you distinctly remembered seeing this order apart from others and independently of any customary practice of looking over the order book, and that is what I want now—as to the whole entry of the particular order for these two shirts.

A. I never have looked for the order as a separate search, but do distinctly remember having seen the order.

X Q. 194. Was there more than one order on the books under the name of J. H. Mambert, or was this the only order entered under that name during your association with Mr. Ford in the business?

A. I don't know.

X Q. 195. There may have been others.

A. Possibly.

X Q. 196. Do you know that what followed the name of J. H. Mambert in the book were the measurements for these two shirts or other directions as to their manufacture?

A. I do.

X Q. 197. How was one order distinguished from another in that book?

A. By the name of the party giving the order being entered in the book and the order followed.

X Q. 198. About what quantity of shirts were made in any one week in that establishment?

A. I don't know.

X Q. 199. How many orders would be in work at one time?

A. I don't know; usually but one in the store.

X Q. 200. What order preceded this one?

A. I don't know.

X Q. 201. What order followed it?

A. I don't know.

X Q. 203. Mention any other order on the same page with it.

A. I can't remember.

957 X Q. 203. In whose handwriting was it?

A. I don't know.

X Q. 204. Did you enter it yourself?

A. I don't know.

X Q. 203. Where is the book in which it was entered?

A. I can't tell you.

X Q. 206. When did you last see it, and where?

A. I don't know that I have seen it since 1880.

X Q. 207. Did Mr. Ford take it away or did he leave it with you or your firm, Smith & Clark?

A. I don't know positively which.

X Q. 208. Have you looked for it?

A. I have not.

X Q. 209. On reflection are you now able to state when or by whom the rubber stamp was made by which the impression below the placket opening of Defendants' Exhibit A was made?

A. I cannot.

X Q. 210. How long was that stamp used?

A. I don't know.

X Q. 211. Who made the rubber stamps for Mr. Ford generally?

A. I don't know that he ever bought any of any located company. He bought a great many from parties who came there and solicited the order and who took the money on delivering the goods.

X Q. 212. Did Mr. Ford have or use any other stamp which gave in outline the form of a shirt?

A. I think he did.

X Q. 213. Do you know he did?

A. I am not positive.

X Q. 214. What is the stamp on Exhibit A intended to represent? Does it give an outline of Ford's own shirt or shirts?

A. Not that I know of.

X Q. 215. Does it do so in any part of the stamp?

A. As I remember the cut it was an ordinary cut of a shirt
958 used in a printing office that the stamp was made from. Ford never had any cut of his shirt.

X Q. 216. The dark outline around in the bosom in that stamp, then, is not intended to represent a binding, is it?

A. No; not to my knowledge.

X Q. 217. The cut represents an open-front shirt, does it not?

A. I don't know; it is too dim, and I have never examined the stamp itself to see.

X Q. 218. Returning to the subject of the order book, how would you manage to recur to an old order if the orders were not dated?

A. We would run back through the book until we found the man's name.

X Q. 219. Through the entire book?

A. If necessary, until we found the name.

X Q. 220. What kind of a book was that order book? Please describe it fully.

A. Our first order book was an ordinary account book about a foot square and of medium thickness; I should think 150 pages. After that became full we used an account book about the same width as the first, but considerably longer and thicker, and only used the old one for reference to look up the old measures.

X Q. 221. In which of these books was this order?

A. I think in the last.

X Q. 222. Why do you think so?

A. Because I have run onto it frequently in running through the books.

X Q. 223. Were these order books, either of them, printed order books or were they simply blank books without printing on the pages?

A. They were ordinary blank books, and I think not even paged.

X Q. 224. From whom was the last one purchased?

A. I don't think it was a new book. I think it had some justice's record in the front part.

959 X Q. 225. How many pages of the last book were filled before Mr. Ford went out of the business?

A. I don't know.

X Q. 226. About how many?

A. I can't give any estimate.

X Q. 227. Did Mr. Ford do anything but a custom trade?

A. We always kept a stock of our own make of shirts in stock; not made to order. We kept a line in stock.

X Q. 228. Did you purchase any ready-made shirts?

A. Yes, sir.

X Q. 229. From whom?

A. I can't tell you.

X Q. 230. When did you first see a Cluett bound-bosom shirt, and where?

A. I don't think I have ever seen one.

X Q. 231. What method did Mr. Ford employ in cutting out his shirts? Did he use patterns; and, if yea, what kind of patterns?

A. At one time he used a paper pattern of front and back, but usually and for a great many years we have had no pattern except the pattern of yoke and of the smaller pieces.

X Q. 232. Did he ever use a wooden pattern—I mean for the shirt or any part of it; and, if yea, what part?

A. We have used wood patterns of yoke, bosom, neck bands, and wristbands. I think that is all the patterns we ever cut from wood that apply to the shirt.

X Q. 233. About how many shirts did Ford make monthly?

A. I can't give you the number. We never kept any record as separate from the other business.

X Q. 234. About how many?

A. I can't tell you; the number varied greatly.

X Q. 235. Did you have them laundered before delivering them?

960 A. We had them laundered, but not at any laundry.

X Q. 236. Where and by whom did you have them laundered?

A. They were laundered by several different parties. One was a Mrs. Anderson. Her residence then was Chatham: The last I knew of her she was in Nova Scotia. Mrs. Reilly did them at one time. Her residence was Chatham and is now; and a Mrs. Buckley. Her residence was Chatham and is now; and that is all I remember, except since I have been alone, of course.

X Q. 237. When did Mr. Ford begin stamping his goods with rubber stamps?

A. I don't know.

X Q. 238. Is Mr. J. H. Mambert living?

A. I can't tell you. He left Ghent soon after that order was given, and I have never seen him since.

X Q. 239. Where did he go?

A. I can't tell you.

X Q. 240. Is the Mr. Mambert who served you with the subpœna a relative of his?

A. Not to my knowledge.

X Q. 241. How did the Mr. Mambert who served you with the subpœna find out about the Ford shirt first?

A. I don't know, except what he told me when he came to buy the shirt. He said he recollected them by seeing us make them while he was selling goods for Travell & Mambert.

X Q. 242. When was that?

A. I can't tell you the date.

X Q. 243. Please give the conversation that took place between this Mr. Mambert and yourself at the first interview, when the Ford shirt was the topic of conversation?

961 A. I can't remember any of the conversation in words. He came to me on September 1st, I think, 1885, and requested me to make affidavit, which I did. He came again on the 4th of September and requested an affidavit in relation to the shirt marked Exhibit A, which I sold him on that day, September 4th. Beyond that I don't remember the conversation. The affidavits embody the conversation.

X Q. 244. You made the affidavit, as I understand?

A. I did.

X Q. 245. Please give us the substance of it.

A. I have a copy of both of them. I don't know if you can read them.

The witness here produces copies of the two affidavits referred to, and they are marked for identification Clark Affidavit 1 and Clark Affidavit 2 in the — of their dates.

X Q. 246. Did Mr. Mambert appear to know that you had this Mambert shirt when he first put in his appearance, on September 1?

A. He didn't ask me anything about a shirt on September 1st. He did not appear to know that I had that shirt.

X Q. 247. Did he appear to know that you had any other shirt like it?

A. I don't know.

X Q. 248. When and how did he first learn about the Mambert shirt?

A. He came to me on September 4th, the date of the second affidavit, and asked me if I had an old shirt in stock. I went through the bundle of old stock and pulled out one, which has been exhibited as Exhibit A, without any reference to the mark on tab at the time of selecting it. I simply pulled out one that was marked in order to find points for identification and to get one old enough that I could be positive it was cut by Ford.

X Q. 249. Did he describe the binding to you before he saw the shirt?

962 A. He did, by exhibiting to me cuts containing specifications of the Cluett patent bound-bosom shirt as sent from the Patent Office, to which reference is made in my affidavit of September 1st.

X Q. 250. Did he say at that time that he had had any conversation or that any of his friends had had any conversation with Mr. Ford on the subject of bound-bosom shirts?

A. I think not. I couldn't say positively that he had ever mentioned Ford's name in connection with it until he subpœnaed me last Saturday. He then told me Ford had been sworn.

X Q. 251. Is this Mr. Mambert connected with Mack & Company, of Albany?

A. He told me he was in Mr. Mack's employ.

X Q. 252. When did Mr. Ford first begin stamping his manufacture with the outline of a shirt?

A. I don't know.

X Q. 253. You were present, I suppose, and assisted Mr. Ford while he was trying the four different forms of shirts illustrated in the eight sketches which have been made and marked for identification by you in connection with your testimony herein?

A. Not at the first trial of all of them, for Mr. Ford had made shirts a great many years before I was with him.

X Q. 254. Which of those four forms, if any, did you assist in making?

A. I think sketches 4, 6, and 8. It is possible he had made some of sketch No. 6 before I went with him, but I don't think he had made either 4 or 8.

X Q. 255. What part did you do in so assisting him?

A. I can't tell you.

X Q. 256. Why?

A. Because I can't separate the different dates, the different kinds or shapes.

963 X Q. 257. These different forms were not being made or tested all at one time, as I understand you?

A. I think not.

X Q. 258. And, as I understand you, they are numbered in the order of their development; is that correct?

A. I did not so intend except as regards No. 8, which was the last form adopted. As regards to No. 6 we never made but few of that shape after I came with him. Of No. 4 we never made a great many, but of No. 2 we always made and make some of them yet.

X Q. 259. Are you able to fix the extent of the intervals between them in the order of development?

A. I am not.

X Q. 260. What other styles of shirts did Mr. Ford make—that is, shirts without any binding—subsequent to your engagement with him, in 1868?

A. We made some square bosoms that were full pleated, what we term the full-pleat bosom.

X Q. 261. Without binding?

A. Yes, sir.

X Q. 262. About how many?

A. I don't know.

X Q. 263. What other styles?

A. I don't know of any other that would be a distinct style. We

have made them smaller and larger, but nothing that I remember that would constitute a different style.

X Q. 264. Are you referring now to open-back shirts only?

A. I am referring to both open back, open in front, and open on the shoulder.

X Q. 265. And with what kind of bosoms in all three kinds of form, as to shape and construction?

A. I can't positively locate but one order—one order of shirts open on the shoulder, that I recollect of, was made after sketch No. 2. I don't know of any other style we made without a binding, ex-
964 cept the ordinary square bosom. The one order referred to as open on the shoulder was bound.

X Q. 266. What number of shirts did you make per year previous to 1875 in which the bosom was without binding?

A. I can't tell. There were some years during that time in which I don't think we made any without binding.

X Q. 267. Question repeated.

A. I don't know.

X Q. 268. Have you no recollection or means of telling?

A. No, sir.

X Q. 269. Will you please give the names of a few persons for whom Mr. Ford manufactured bound-bosom shirts like Exhibit A between January, 1870, and January, 1875, with their places of residence, and any other means of identification in your knowledge?

A. I can name you the Hon. H. W. McClellan, county judge; residence, Chatham. I can't positively mention the year. I can mention H. R. Thomas, with Spicer here, of Troy. There are many others I could name that I can't tell you where they are now; that is a good many years ago. John H. Cornelius, Jr., he is a conductor on the New York and Harlem railroad; his residence, I think, is White Plains.

X Q. 270. Is that all you can mention?

A. That is all I can mention positively of whom I know their present address or present location.

X Q. 271. Do you know of any shirt or can you produce any shirt made by H. M. Ford prior to August 10, 1874, which is like unto Defendants' Exhibit A in respect to the bosom, binding, and shirt body? I mean the identical shirt which you know to have been made prior to August 10, 1874.

A. I cannot, and I do not know of any.

X Q. 27. Will you please describe the construction of the
965 shirt or shirts made by Mr. Ford for R. H. Thomas, as stated by you in your previous answer?

A. I think the later shirts we made for him before he came to Troy had the same style of bosom as Exhibit A here referred to. We made shirts for him for several years, and I presume they are not all one style.

X Q. 273. Can you give the date when these later shirts were made for Mr. Thomas?

A. I cannot.

X Q. 274. Can you give the dates of any other form made for Mr. Thomas?

A. I cannot.

X Q. 275. Or what other forms were made for him?

A. I don't know.

X Q. 276. Do you know the dates of any of the shirts made for the Hon. H. W. McClellan—that is, date of manufacture and sale?

A. I do not.

X Q. 277. Can you give the date of manufacture and sale of the shirts made for John H. Cornelius, Jr.?

A. I cannot.

X Q. 278. Can you give the date of manufacture and sale of any other shirt whatever prior to August 10, 1874, in which a binding was applied to the edge of the bosom?

A. I cannot positively locate any sale.

X Q. 279. What was the old style of attaching shirts upon which you think that the Ford shirt was an improvement?

A. In the old idea, in my first remembrance, was to cut out the front when using a full-pleated bosom, allowing the two plies of the pleat to run under the edge of the front and the one ply of the pleat on top of the front, stitching the edges through all the thicknesses and a separate piece at the bottom to finish attaching the bosom to the shirt.

966 X Q. 280. How did the binding operate when Mr. Ford used tape for the binding?

A. I don't know. I don't think he used tape after I came with him. I have no remembrance of his using any tape.

X Q. 281. Did you never hear him mention the use of tape for binding purposes on the bosom?

A. Yes, sir.

X Q. 282. When?

A. I can't tell.

X Q. 283. What did he say about it?

A. He claimed it didn't work good on account of drawing.

X Q. 284. How came he to mention it?

A. I don't know any particular reason. It has been mentioned repeatedly in conversation, and more particularly since we found there was a patent on the binding.

X Q. 285. About when was the first mention of it?

A. I don't know.

X Q. 286. That was after you saw the advertisement of the Monarch bound-bosom shirt, was it?

A. We had most of our conversations in regard to binding after seeing that advertisement.

X Q. 287. Did you follow up the advertisement to ascertain what the Monarch bound-bosom patent was?

A. No, sir.

X Q. 288. Did you notice the name of the firm advertising it?

A. Yes, sir.

X Q. 289. And was not your curiosity sufficiently excited to ascertain what the patent covered?

A. It was not.

X Q. 290. When did you first see a copy of the Cluett patent here in suit—I mean the specifications and drawings?

A. I think I first saw them on September 1st, 1885.

967 X Q. 291. Which of these four forms of shirt shown in the sketches did you first see?

A. Sketch No. 2 was our first idea of binding, except that we didn't bind the bottom at first, simply binding the two edges.

X Q. 292. When did you first bind the bottom of that shirt, and how?

A. I don't know when we first used the continuous binding.

X Q. 293. Will you please make me a model of that style of shirt and bosom—that is, the shirt front and bosom exactly as it was made and arranged—according to the best of your recollection as you first saw it?

A. I have done so and marked the same "Clark's Sketch No. 9" and "Clark's Sketch No. 10," with my signature, for identification.

X Q. 294. Please make now similar sketches showing the next form or modification made after the shirt represented in sketches 9 and 10.

A. I think they are embodied in the previous sketches, but I can't positively locate them in order.

X Q. 295. How long after the form of sketches shown in 9 and 10 was the next form or modification made?

A. I don't know.

X Q. 296. About how long?

A. I can't tell you.

X Q. 297. For whom were these shirts like sketches 9 and 10 made?

A. I can't name the individuals that Mr. Ford made them for. They were all made, subject to his order, by me.

X Q. 298. The sketches Nos. 4 and 8 show two lines of stitching on the binding and appearing on the front of the same—one row upon the outer edge, as in sketches Nos. 2, 9, and 6. When was the inner line shown in figures 4 and 8 first added or adopted?

968 A. I don't know. We have always within my remembrance, and do yet, use sometimes one row and sometimes two.

X Q. 299. According to your statements, only one row was used in the first form known to you, which was like sketches Nos. 9 and 10. Now, when was the second line of stitches added for the first time?

A. I don't know when the second line of stitches was first added. In my testimony of yesterday I gave the same explanation in regard to stitching the various shape of bosoms that I have given you now. I can't say positively that sketch No. 9 was never stitched twice, neither can I say that it was stitched twice, because we never used either plan as being strictly necessary.

X Q. 300. What do you mean by saying that neither plan was strictly necessary?

A. I mean that we had never felt compelled to put on the second

row or inner row; it was done simply to add to the looks, and when we were not in any particular hurry it was put on.

X Q. 301. Then the second line of stitches had no particular object or necessity beyond that of appearance; is that so?

A. None that I know of.

X Q. 302. Will you please describe in full the advertisement seen by you and Mr. Ford in 1875 of the bound-bosom shirt.

A. As I remember, it was simply a cut of a shirt, and I think the page had also cuts of collars and cuffs, and it was advertised, I think, as the Crown or Monarch bound-bosom shirt, patented some time in 1874, if my memory is correct; I can't give the date. It occupied a page in the "Review." I think it was a page advertisement.

X Q. 303. It attracted considerable attention on your part and Mr. Ford's, did it not?

A. No particular attention beyond that already stated.

969 X Q. 304. Did you cut out the cut?

A. No, sir.

X Q. 305. Did the cut show two lines of stitches on the binding?

A. I don't know.

Counsel for complainants here requests the witness, on his return to Chatham village this evening, to make a re-examination of the books and documents of various kinds in his possession, either at his house or place of business, which contain any record of shirts manufactured by Ford prior to August 10, 1874, in which a binding is used or was used and applied to the edges of the bosom of the shirt; and also the witness — please make search for any slips, memoranda, or written evidence of any kind or stamps that were made for or used by Mr. Ford prior to August 10, 1874, and produce the same at his examination, to be continued here to-morrow.

Adjourned to Thursday, February 18th, 1886, at 10 o'clock.

TROY, *February* 18, 1886.

Met pursuant to adjournment.

Present: Same parties.

Cross-examination of MYRON E. CLARK resumed by Mr. SKILTON:

X Q. 306. Have you looked, as requested last evening, for books, memoranda, &c., and, if yea, with what result?

A. I have looked and find nothing referring to the case in any way.

X Q. 307. What did you or your firm, Smith & Clark, buy from Mr. Ford or Mrs. Ford when the business was purchased in 1880?

970 A. We bought his stock and business as conducted at that time.

X Q. 308. What did this last item include or consist of?

A. His good will in the business.

X Q. 309. What is the nature of the good will of such a business?

A. As I understood it at the time of purchase, that he would not take up the same line at Chatham.

X Q. 310. You considered, I suppose, in that purchase that the list of his customers had some value to you or to any one proposing to continue the business?

A. The acquaintance of his customers I consider of value. Beyond that he had nothing to sell.

X Q. 311. Is not the order book of such a business useful for the purpose of enabling one to fill duplicated orders?

A. It would be in case the party giving the order could not come personally. If he could, I would take a new measure when receiving the order. The old order would be of no benefit whatever.

X Q. 312. If the old order had proved so satisfactory to the party that he should propose to duplicate it, would you ordinarily take the risk of a new measurement instead of falling back upon and being guided by the old measurements?

A. I would look up the old measures while he was there. If I could find it I would copy the old measurement; if not, I would take a new one.

X Q. 313. As a matter of fact, were not these two old order books of which you have testified left with you or retained by you as a necessary part of your purchase or a very convenient part in order to enable you to duplicate old orders or verify new orders and measurements by the old?

A. Those books were left with me or with us, rather, at the time of the purchase, not as a necessity, because my knowledge of
971 shirt-cutting was picked up from watching Mr. Ford do his cutting, and I would sooner trust to my own measures after assuming the business than to cut from measures taken by him. While in the employ of Mr. Ford he took the measures for nearly all the shirts cut by him.

Examination of this witness adjourned to Friday, February 19, 1886, at 10 a. m.

TROY, *February* 19, 1886.

Met pursuant to adjournment.

Present. Same parties.

Cross-examination of MYRON E. CLARK resumed by Mr. SKILTON:

X Q. 314. Is not the order book of a retail concern which has been engaged in manufacturing shirts for some time usually considered to have value and to be worthy of preservation with the successors of such a concern?

A. I don't know.

X Q. 315. Did not you look upon the two order books of Mr. Ford as having value when you and Mr. Smith took up his business?

A. I can't say that I did.

X Q. 316. Why not?

A. Because I had no use for them. As I stated in my answer yesterday, my knowledge of the business was gathered from observation and not by any study whatever, and for that reason I have always preferred to cut from my own measurements.

X Q. 317. Did you, as a matter of fact, make use of Ford's old order books in duplicating orders that were originally taken by him?

A. I presume I have, in the early part of my coming, but I can't say positively.

972 X Q. 318. What amount of business did Mr. Ford do per annum in the manufacture of shirts?

A. I don't know. It never was kept separate from his other business.

X Q. 319. About how many orders did he have per week?

A. I don't know.

X Q. 320. Did he average one a week?

A. I couldn't say positively.

X Q. 321. He made some shirts in the old and regular way, did he not, and not confine himself to the style shown in Defendants' Exhibit A or other styles with a binding?

A. He never was confined during my term of service to any style or shape whatever. He did make the shirts without the binding and with the edge of the shirt inserted between the layers of the bosom, if that was the regular way. Mr. Skilton, if you will allow me to explain, my experience as a shirt-maker is confined to the one little store, and I don't think I have ever been in a shirt factory to see any shirts cut or made in my life.

X Q. 322. You had picked up what you knew, then, about shirt manufacturing from Mr. Ford when you commenced business with Mr. Smith?

A. Entirely.

X Q. 323. Have you made any further search since yesterday for the purpose of discovering memorandums of any kind which will give dates of the manufacture of shirts by Mr. Ford while you were in his employ?

A. I have not.

X Q. 324. Did you ever make any shirts for Hugh W. McClellan, of Chatam village, who testified here yesterday, since Mr. Ford sold out?

A. I can't say positively, but think I have.

X Q. 325. How long ago?

A. I don't know.

X Q. 326. What kind of shirts did you make for him?

973 A. I don't know.

X Q. 327. How many times have you made shirts for him?

A. I can't answer; I don't know.

X Q. 328. You have continued to make shirts like Defendants' Exhibit A, have you not?

A. Yes, sir.

X Q. 329. From the time you and Smith bought out Mr. Ford down to the present time?

A. I have.

X Q. 330. How many such shirts have you made during that period, probably?

A. I don't know and I cannot make an estimate.

X Q. 331. Over one dozen?

A. Yes, sir.

X Q. 332. More than twenty dozen?

A. Yes, sir.

X Q. 333. More than a hundred dozen?

A. I don't know.

X Q. 334. More than seventy-five dozen?

A. I can't tell positively.

X Q. 335. More than fifty dozen?

A. I don't know.

X Q. 336. When was it that Mr. Mambert called on you, representing the firm of Travell & Mambert?

A. I don't know what year or years, but it was while Mr. Ford was the principal in the business.

X Q. 337. Was it soon after you went with Mr. Ford?

A. I can't tell.

X Q. 338. Was it after 1875?

A. I don't know.

X Q. 339. What is your impression—that it was after or before '75?

A. It is impossible for me to fix the date, as I simply remember him as a drummer.

X Q. 340. You must have some impression whether it was early in your experience in Ford's store or toward the end of your
974 term with him; and, if you are not positive, what is your best impression in that regard?

A. I have no distinct recollection of the time and can only say that the firm he represented, of which he claimed to be one of the principals, and until recently I haven't seen him for several years nor heard from him, and he had nearly dropped out of my remembrance as an acquaintance.

X Q. 341. Well, what should you say was about the interval between the time of your last seeing him as a drummer representing the firm of Travell & Mambert and the time when you renewed your acquaintance with him in September last, as stated?

A. It must have been at least seven years, and perhaps more.

X Q. 342. Had you seen the advertisement of the Monarch bound-bosom shirt in the Review before you saw Mr. Mambert or did you see Mr. Mambert first?

A. I don't know.

X Q. 343. I requested you yesterday to produce the bundle from which, according to your testimony, the Defendants' Exhibit A was pulled, and a bundle containing thirteen shirts has just been opened in the presence of counsel and the examiner, purporting to be that bundle. Some of these shirts show a double row of stitching on and

through the front and binding, and others only one on the outer edge of the same. The bosoms of twelve of these are laid-on bosoms, the other is a set-in bosom. Eleven of them have binding on the edges of the bosom and two are without binding. Of the eleven shirts with binding all are open-back shirts and are provided with double-fastening devices or button-holes in the neck band at the back. Please state whether the bundle so produced and thus described is in fact the bundle from which Defendants' Exhibit A was taken on September 4, 1885, and sold to Mr. Mambert.

A. It is.

975 X Q. 344. Whose device or arrangement is the double-buttoning arrangement at the back of the neck band in these shirts and in Defendants' Exhibit A?

A. So far as my knowledge goes, it was Mr. Ford's. I never have seen any other shirts made like it nor with a back piece put on in the same way, neither before we made nor since, except from patterns that we have cut for customers.

X Q. 345. How long or how far back had Mr. Ford used this double-fastening arrangement at the back?

A. I can't tell.

X Q. 346. Was his use of the double fastening contemporaneous with his use of the binding, so far as you know?

A. I don't remember positively. My impression is that we used the binding several years before we made shirts open in the back, but I can't say positively.

X Q. 347. So far as bound bosoms or open-beck shirts are concerned, were the bound bosoms and the double-fastening arrangements contemporaneous?

A. I don't know that I understand the question.

X Q. 348. When Mr. Ford commenced the use of open-back shirts with bound bosoms did he also commence the use of this double-fastening arrangement shown in the Defendants' Exhibit A and in the eleven other open-back shirts with bound bosoms produced here this morning?

A. I can't say positively, but think he did adopt the wide lap immediately upon making open-back shirts.

X Q. 349. How long did Mr. Ford manufacture the open-front bosom before adopting the open-back style of shirts?

A. I don't know.

X Q. 350. How long do you think?

A. I can't tell.

976 X Q. 351. Give us your best impression.

A. I can't give an opinion, as I have no fixed thing to locate it by and never take any particular notice in the shirts as made.

X Q. 352. He was making the open-front shirts when you first went with him, I suppose?

A. I think so.

X Q. 353. And for how long did he make them?

A. We had always made them whenever customers wanted them,

from that time until now, but I can't say how long we made them so entirely.

X Q. 354. Your first experience in making shirts must have been with the open-front variety?

A. As I remember it, it was.

X Q. 355. Can't you state how long after you began to learn the business the experiments with the open-back shirts began?

A. I cannot.

X Q. 356. What was the shape of the bosoms of these open-front shirts?

A. I don't remember anything positively about bosoms, in regard to shape, at my first making. When I first went with Mr. Ford I had never run a sewing-machine. I had to learn to operate that first. For that reason during the first few months I was not allowed to stitch any bosoms. They were made outside of the store. The first positive recollection I have of binding bosoms was prior to April 5th, 1869, and, to the best of my memory, the first bosom that I was allowed to make. I don't remember the shape of the bosom.

X Q. 357. When Mr. Ford began to make bound bosoms was the strip secured to the bosom outside of the store; and, if yea, who was it?

A. I don't know whether they were fastened outside of the store or in the store. During my learning to operate the machine Mr. Ford did a great deal of sewing personally, but what part I don't know, as I had no interest whatever except to learn to do the business myself.

977 X Q. 358. You are unable to state, then, when the experimenting began with the different forms of bound-bosom shirt shown in Clark's sketches Nos. 1 to 10?

(Sketches submitted to the witness.)

A. I am. It would be impossible to definitely locate it.

X Q. 359. Which of the shirts among the eleven bound-bosom shirts produced here this morning were made by Ford, if any; which by Smith & Clark, and which were made by yourself?

A. Five of them were made by Myron E. Clark; five of them were made by Smith & Clark. The eleventh I can't say positively, but think it was made by Mr. Ford. The two without binding were not made by either of the three parties, and are simply from stock or shirts from outside parties.

X Q. 360. What makes you think so as to the eleventh?

A. Because the bosom is larger than I have any remembrance of having made since I did the cutting, and as I have no recollection of making it as distinct from any other.

X Q. 361. Did you do the cutting and fitting for shirts for Smith & Clark?

A. I did.

X Q. 362. Is there any other means of identifying the eleventh shirt beside what you have mentioned?

A. The neck band is cut with square corners and the wrist bands with round corners. To the best of my memory, we have used the

round-end neck band since several years before Mr. Ford sold to Smith & Clark, and that, as another reason, leads me to think the shirt must have been made by Ford.

X Q. 363. Are you able to say when this eleventh shirt was made?

978 A. I am not.

Counsel for complainants requests the witness to mark the eleventh shirt with his name and the date of this day for identification.

X Q. 364. This shirt bosom so marked for identification contains two pleats on each side of a centre box pleat, does it not?

A. Yes, sir.

X Q. 365. When Mr. Mambert first interviewed you on September 1 what did he state to be his object?

A. I can't say positively, but I think that he wanted an affidavit made to be used by Mr. Mack as defendant, as he was expecting to be prosecuted. That is the best my memory serves me, and that was when Mr. Mambert told me he was in the employ of Mack & Company, of Albany.

X Q. 366. Did he see one of the bound-bosom shirts of yours or Ford's make at that time—the first of September?

A. I can't say positively, but I don't think he did.

X Q. 367. Was a slip cut from the drawings of the Cluett patent attached to that affidavit?

A. It was.

Counsel for complainants here requests the counsel for defendants to produce the affidavit of this witness of September 1, 1885, for examination, in view of the fact that Mr. Mack of Mack & Company of Albany, and Mr. Mambert, who procured the affidavit of Mr. Clark, are or have been here in attendance on the taking of this testimony participating and aiding in the production of witnesses and in the general conduct of the case on behalf of defendants herein.

979 Counsel for defendants says he will produce them at the proper time.

X Q. 368. When Mr. Mambert came to you on September 1st, 1885, had you any idea that you were being crept upon by the securing of the affidavit?

A. I don't know that I understand the question.

X Q. 369. Did you know, did you understand, that Mr. Mambert was attempting to bind you by this affidavit to certain dates in order to fix your testimony in advance for this or any other suit under the Cluett patent?

A. I did not so understand it. He asked me if I would testify to the facts of Ford's manufacturing shirts if I was called upon to do so, and I told him I would. Whether I told him this on September 1st or September 4th I can't say.

Counsel for complainants requests the witness to mark the ten of the bound-bosom shirts from the package opened here this morning with his name and this date for identification, distinguishing between

those made by Smith & Clark and by himself by some mark which he may mark for the purpose. The same are marked by number in order and with the initials S. & C. for Smith & Clark, and C. for Clark; also with the name of the witness.

Cross-examination closed.

Redirect examination:

Defendants' counsel offers in evidence the Clark sketches from 1 to 11, inclusive, heretofore marked for identification, and the same are now marked Defendants' Exhibits Clarke's Sketch from 1 to 10, Inclusive, J. M. L., U. S. C.

980 R. D. Q. 370. I now show you a shirt bosom partly bound with a bias strip all around the bosom, and ask you who made it and what it represents, and whether it is similar to the shirt bosom fastened upon the shirt body in Defendants' Exhibit A by one row of stitching.

A. The bosom was made by me within a month. It is a shirt bosom ready to be put in the shirt or on the shirt. It is the same bosom as that on Defendants' Exhibit A, except as regards the front or centre pleat.

Defendants' counsel offers the same in evidence, and the same is marked Defendants' Exhibit Clark Model, February 19, 1886, J. M. L., U. S. C.

R. D. Q. 371. Please look at the two affidavits made by you—one on September 1st, 1886, and the other on September 4th, 1885—and tell us whether they are original affidavits and whether you swore to them.

A. Yes, sir; they are.

Affidavits marked for identification Clark affidavit 1 and Clark affidavit 2.

Redirect examination closed.

Recross-examination by Mr. SKILTON:

R. X Q. 372. I observe that there are no diagrams connected with your affidavit of September 1, as just marked for identification. Were you shown the diagrams of the patent as well as the claim of the Cluett patent by Mr. Mambert?

A. I was shown a four-page pamphlet, containing drawings, specifications, and claims of the Cluett patent.

981 Counsel for complainants states that the eleven shirts from the bundle have been marked for identification by the witness, and have been disposed of by him to counsel for complainants, who will take possession of the same, reserving the right to rip these shirts or either of them on the edge of the bosom to show their method of construction, if desired.

Recross-examination closed.

Redirect by Mr. RAEGENER:

R. D. Q. 373. Do you know any of the defendants or their attorneys; and, if so, how long?

A. Mr. Wallerstein was pointed out to me while I was eating at the Mansion House—but whether on Tuesday or Wednesday of this week—and I was introduced to him yesterday, and with that exception I don't know any of the defendants named; and the attorneys for both sides I never saw them until on Tuesday I met them at the office of Mr. Landon.

Examination of this witness closed.

MYRON E. CLARK.

Sworn to before me this 19th day of February, 1880.

J. M. LANDON,
U. S. Commissioner, Troy, N. Y.

HUGH W. MCCLELLAN, a witness produced on behalf of the defendants, being first duly sworn, and examined by LOUIS C. RAEGENER, Esq., testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

982 A. Hugh McClellan; residence, Chatham; occupation, that of a lawyer, county judge of the county of Columbia; I am 65 years old.

Q. 2. If you have held any judicial position please state which and since what time.

A. I have held the position of surrogate of Columbia county for the years 1868, 1869, 1870, and 1871. I have held the position of county judge of Columbia county for the eight years prior to the first of January last, and am now in my second term in that office.

Q. 3. Have you known Hiram M. Ford; and, if so, since when and where did you become acquainted with him?

A. I have known him since 1866, and knew him in Chatham, and probably before that. I knew his father years before.

Q. 4. Did you ever have any business dealings with him; if so, when and of what nature?

A. I have; probably commencing in the year 1867 and continuing as long as he carried on business in Chatham—I can't tell you the year—and it was buying small articles for my personal use; usually hats, shirts, collars, &c., gloves.

Q. —. If you have ever had shirts made for yourself by Ford please describe them and tell us what you recollect concerning them.

A. Well, I know he took pride in making a very good shirt, and did make a good article of shirt. He was an ingenious man himself, and he made shirts for me the first I ever heard of or saw with the bosom coming down in a curve at the lower end. They were usually thick and heavy. They were bound at the edges and stitched.

Q. 6. Did the binding go round part of the bosom or the whole?

A. The binding went around on each side until it met the point

where there is a flap with a button-hole in at the bottom of the bosom.

Q. 7. Did the stitching go around the bosom part of the way or all the way?

983 A. My impression is it went on each side as far as the binding did.

Q. 8. And upon what part of the bosom was this stitching?

A. On the binding.

Q. 9. When was it that you had shirts like those described in your previous answer made for you by Ford? And, if there is any circumstance which enables you to fix the time, please do.

A. Well, I can't tell any particular time, nor so as to give dates any nearer than this. In February, 1867, I returned to Chatham after being absent a few years and remained there continuously until the spring of 1870. During that period I bought all my shirts of Ford, and those shirts were of the description I have given here as near as I can tell, and I know I wore those shirts after the spring of 1870, as well as before, and until some time in the year 1871, I think, but in 1870 or 1871 I changed and bought shirts of another party which came—and they were manufactured by Ball & Company, of this city—who was a travelling salesman.

Q. 10. Please look at Defendants' Exhibit A and, after examining the same, tell us whether it resembles or differs, as far as you can observe, from the shirt made for you by Ford between 1867 and 1870 and worn by you during that time and after.

A. Yes, sir; this is just such shirt as I have worn—just such bosom. I have seen them and had them made with different plates on the face, some more and some less. I recollect my order was I wanted them just one pleat instead of two pleats. I have seen them with more than one row of stitching through that binding, and had them that way.

Q. 11. Your last answer had reference to the shirts in your possession between 1867 and 1870, and I would also like to know whether they were open-back shirts or open front.

A. Open back always.

984 Q. 12. Do you know Myron E. Clark; if so, how long have you known him and where did your acquaintance with him begin?

A. I have known him precisely as I have known Ford—always in the town of Chatham. He was a clerk for Mr. Ford during a portion of the time I have spoken of.

Q. 13. What is his present business?

A. The same as it always has been after Mr. Ford left, that of hats and robes and gent.'s furnishing goods. The business enlarged, though, from what Ford had it. He was born and brought up right there in that vicinity, within a mile.

Q. —. Do you know Myron E. Clark's reputation for truth and veracity? And, if so, please give the same.

Question objected to as incompetent and irrelevant, no question having been raised on the point involved.

Defendants' counsel states that, inasmuch as the evidence discloses and there have been intimations of money being offered for the testimony of Ford and because defendants' counsel cannot know whether the complaint will at any time attack the character of Mr. Clark, the said Clark residing in Chatham, and it being a great inconvenience to recall him as a witness hereafter, and also to produce other witnesses on such questions should it be raised hereafter, he deems it both prudent and expedient to obtain evidence on that point before, especially as he had never met Ford or Clark before they were put upon the witness stand, had them subpœnaed, and had every reason to believe they would be hostile witnesses.

Counsel for complainants replies that all the intimations in regard to money and purchased testimony in this case have come
985 from defendants' own witness or witnesses, as an examination of the record will show, and that it is therefore incompetent at this stage of the case to attempt to bolster the character of defendants' witnesses.

A. I do, and it is perfectly good.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 15. Have you been a resident of Chatham village from the year 1868 continuously down to the present time?

A. I have not.

X Q. 16. During what years between 1868 and the present time have you not been a resident of Chatham village?

A. From February or March, 1870, until the first day of April, 1872, I resided in the city of Hudson. With that exception I have lived in Chatham continuously from February, 1867, till the present time.

X Q. 17. How many times have you purchased shirts from Hiram H. Ford between the year 1867 and the year 1880?

A. It is impossible for me to tell, but several times.

X Q. 18. When was the last time?

A. I can't tell you that, sir.

X Q. 19. Have you now in your possession any of the shirts purchased by you from Hiram M. Ford between the year 1867 and the year 1880?

A. I have no doubt I have them in my house.

X Q. 20. Have you looked for any such shirts recently?

A. I never looked for any such shirts.

X Q. 21. Have all the shirts purchased by you from Hiram M. Ford between the years last mentioned been made like Defendants'
986 Exhibit A, and made in accordance with your description given in answer to question 5?

A. I believe they have.

X Q. 22. You are unable, then, as I understand, to swear positively that they have been so made?

A. As I described them I am very sure they have been of the shape I described; I am very sure they were made with the

binding like described, but I am not sure that all of them were stitched on the edge through the binding, but I have had them stitched on the edge through the binding, sometimes with one and sometimes with two rows of stitching. I know they were not always alike precisely.

X Q. 23. Will you please fix as near as you can the date which you first purchased shirts from Hiram M. Ford made like Defendants' Exhibit A—that is, with the bosom of the same shape, with binding on the edge of the bosom, but without reference to the particular number of rows of stitches through the binding?

A. I can't give the particular date, but I can swear positively it was prior to my removal to Hudson, in 1870, and upon more than one occasion.

X Q. 24. After your return to Chatham did you resume your custom of trading with Mr. Ford?

A. I did to a certain extent—that is, if Mr. Ford was at that time carrying on his business there—but I did not deal so wholly with Mr. Ford.

X Q. 25. Did you purchase shirts from Mr. Ford after your return to Chatham or Hudson?

A. I did either from him or Mr. Clark, in the same establishment. I don't know who was running it then—either Ford or Clark—one of them.

X Q. 26. When did you make the last purchase from either Ford or Clark? I mean of shirts.

A. It is impossible for me to tell you, sir, but it is several years ago.

X Q. 27. Have you purchased shirts from Myron E. Clark since he has been doing business alone in Chatham?

A. Yes, sir.

987 X Q. 28. What style of shirt did you so purchase?

A. Similar shape to this Defendants' Exhibit A.

X Q. 29. And with the binding like Defendants' Exhibit A?

A. I am not sure.

X Q. 30. What is your impression about that?

A. Well, I haven't any impression one way or the other.

X Q. 31. Did you purchase shirts like Defendants' Exhibit A from the firm of Smith & Clark while they were engaged in business as the successors of Mr. or Mrs. Ford or the predecessors of Mr. Clark?

A. I am not absolutely sure, but I think I bought one lot of shirts while they were together.

X Q. 32. Please describe the shirts so purchased from Smith & Clark.

A. As near as I can. I think they were similar to it, and I think all the shirts I ever got of Clark were, I should say, just like this Defendants' Exhibit A, but I will not swear positively to that.

X Q. 33. And, as I understand you, the shirts purchased from Mr. Ford while Clark was in his employ were also like Defendants' Exhibit A, according to your best present impression?

A. Yes, sir.

X Q. 34. Are you able to swear that you purchased shirts from

Hiram M. Ford like Exhibit A before Myron E. Clark entered Ford's employ?

A. I am not sure, because I don't know when he was first in Ford's employ—that is, Clark was in Ford's employ.

X Q. 35. Are you able to swear positively that you bought any such shirts—that is, like Defendants' Exhibit A—from Mr. Ford in 1867?

A. No; I won't swear positively that I bought shirts of Mr. Ford in 1867 with the stitching on the binding.

X Q. 36. Did you purchase any such shirts, positively, dur-
988 ing that year from Mr. Ford that were like Defendants' Exhibit A with the exception of the stitching on the binding?

A. Not positively; but I believe I did.

X Q. 37. How was the binding held on, if you did so, in those shirts?

A. I think the first binding that I saw on these shirts the stitching itself did not show; it was apparently sewed on and turned over closer to the edge of the bosom—the piece. The binding showed narrower than those that he stitched. That is my impression, and it is also my impression that the first binding I saw on a shirt of his or anybody else's was on a bosom that the sides were straight; and it is also my impression that at that very time I gave an order for some shirts with the bosom bound to Mr. Ford when they were showed to me.

X Q. 38. Was the stitching in that case made through the shirt front and not through the binding or not through the front of the binding?

A. When I first saw them I think the shirt bosom was not so closely fastened to the shirt as they were afterward. I mean by that the connections of the shirts was not so near the edge of the bosom.

X Q. 39. How wide was the binding in that case?

A. It was narrow; very narrow.

X Q. 40. Was it applied within the edge of the bosom?

A. I have forgotten how it was applied, although it was shown to me, as I did not take it apart. The binding was not more than half the width of this exhibit at that time. The binding in sight, I mean.

Question repeated.

A. I supposed that I had answered that; but I couldn't tell how it was applied, although it was shown to me at the time.

X Q. 41. Well, however it was applied, the shirt you are endeavoring to describe was that which you first ordered from H. M. Ford, to the extent of a half dozen shirts, I suppose?

989 A. Yes; the first that I saw of the bound-bosom shirts I made an order for, and they had the narrow binding which I have just been describing.

X Q. 42. And this first order given to Mr. Ford did not have the wide binding as shown upon Defendants' Exhibit A, but had the same shape of bosom, did it?

A. I am not sure as to shape. I think that when I first ordered it did not have so wide a binding as the exhibit.

X Q. 43. Was this order given in the year 1868, positively?

A. This first order?

X Q. 44. Yes; we are talking about the first order.

A. I will swear positively that it was given before the year 1870, and I believe and am quite sure it was as early as the year 1868.

X Q. 45. Will you swear positively that this first order was given in 1869?

A. No, sir; I think it was before.

X Q. 46. Will you swear this first order was given in 1870?

A. I will not swear it was given in that year. I know it was not.

X Q. 47. How many orders were given by you to Mr. Ford for shirts between the years 1867 and 1870?

A. I can't tell.

X Q. 48. Can you say positively that there were three orders between those years?

A. I have no doubt there were three orders at least in those three years of '67, '68, and '69, but not to say positively. I cannot, because I cannot recollect.

X Q. 49. Can you say positively that you gave Mr. Ford two orders for shirts between the years 1867 and 1870?

A. I have no doubt I did.

X Q. 50. But you can't say positively, I understand?

990 A. But I won't say positively, because I don't recollect the particular time. I know I got what shirts I used those three years of him or Clark—whoever run the business there.

X Q. 51. Will you please describe how the shirts of the second order were made, with special reference to the bosom and its attachment to the shirt?

A. I cannot describe the particular order as to time in which it was made. I can describe one particular order, but whether the 2d, 3d, or 4th I can't tell.

X Q. 52. Please do so.

A. At one of the times Mr. Ford asked me, when I came to get some more shirts and while taking my measure, how I liked that bosom bound. I told him I liked it because the bosom outlasted the shirt; and he showed me a sample of or some samples of bosoms of different styles. Among them was the style, as near as I can recollect, like Exhibit A, with either one or two rows of stitches run through the binding, and I gave directions of the style of bosom on the front of it, the number of pleats, and ordered some shirts of that style. I got them and paid for them and used them; and that was before 1870.

X Q. 53. How many pleats did you order?

A. I think I always got six; never over that.

X Q. 54. Do you mean six pleats on a side or only three pleats on a side and six pleats in all?

A. Those that I ordered—I don't know about the number of pleats. I think that my orders were almost universally with only one pleat

or a strip down the centre. When my attention is called that I had answered that I had six pleats on the bosom——

The witness states he understood the question to be the number of shirts he had ordered and not the pleats on the bosom.

Recess to 1.45.

991 1.45.

Cross-examination of witness resumed:

X Q. 55. Recurring again to the shirts of the first order given to Mr. Ford, and in which the binding was narrower, as described, than the binding in Defendants' Exhibit A, and which, as I understand you, showed no lines of stitching on the binding, how was that binding secured—by what means?

A. You stated what I said I thought occurred at the first interview concerning my knowledge of shirt bosoms being bound. I think I stated I could not tell how it was secured, although I believed I was shown how at the time and I so believe, and I think it was in 1868, too.

X Q. 56. Are you unable to explain how the binding, bosom, and shirt were arranged and secured together in this instance or in the case of the first six shirts?

A. I can't explain further than that it was secured by stitching—by being sewed. I am not a shirt-maker; can't tell the minutiæ.

X Q. 57. You are not able, then, as I understand you, to locate the line of stitches which secured this binding?

A. Why, yes; I am; so far as this: The stitches that secured the binding to the bosom was nearer to the edge of the bosom than it is in this exhibit. How they were put there I don't know.

X Q. 58. My question related to the binding and stitching referred to in the answer to X Q. 37, in which you said as follows: "I think the first binding that I saw on these shirts the stitching itself did not show; it was apparently sewed on and turned over closer to the bosom—the piece. The binding showed narrower than those that he stitched; that is my impression." What I want to know is how this first binding was secured—that is, I want to know the
992 location of the stitching and what it passed through and what it secured.

A. When I spoke of the row or rows of stitching through the binding I referred to the stitching through the binding near the edge of the bosom and not to the stitching that fastened the binding to the bosom. The stitching that I have always referred to as being on the bosom, and, as I supposed, about which the gentleman asked, is the stitching that goes through the binding close to the edge of the bosom and nearer the edge than the first fastening of the binding to the bosom.

X Q. 59. As I understand you in the answer to X Q. 37, the first binding you saw did not have on it a line of stitching that showed. Now, this line of stitching which did not appear, if any, where was it located, through what layers did it pass, and how did it secure the bosom to the shirt body?

A. I have answered that, I think, two or three times. I have said I do not understand the minutiæ how the bosom was fastened to the shirt body, although I have been shown how, certainly as early as 1868. When I said that there was no line of stitching that showed on these first bindings of bosoms that I saw I referred to the outside stitching and not to those stitches that fastened the edge of the binding; might call it the inner edge of the binding, which also probably showed to some extent.

X Q. 60. In the shirts referred to in answer to X Q. 37, what was the location and through what did the other stitching—that is, on the inner edge of the binding—pass, and what did it secure?

A. What does it refer to? All the stitching was on the bosom. I suppose the inner or first fastening of the binding secured the binding to the bosom. I suppose the other stitches went through the bosom and the others through that and the shirt. I don't know how exactly.

993 X Q. 61. Will you please inform us how the binding in these shirts, referred to in the answer to X Q. 37, was folded? How many times, and where?

A. I don't know exactly what is meant by it. If you want me to state what I suppose and believe—well, I believe there was a fold in front; that when the binding was put on first it was laid on the bosom, sewed to the bosom, and folded over and around the edge. Whether there was another fold under that I can't say.

X Q. 62. Independent of other shirts that have been seen by you since that time, and especially independent of Defendants' Exhibit A, are you able to state from absolute knowledge how the binding was folded in these six shirts?

A. I know there was a fold in front, because there was no raw edge in the binding in front on the outside. Beyond that I can't.

X Q. 63. Then your last answer is given on the supposition that where a strip of material is secured to the bosom and shirt body at the edge of the bosom so as not to show a raw edge there must be a fold in front—that is, on that part of the binding which is on the front of the bosom? Is that so?

A. No, sir; not entirely. My judgment is founded considerably upon the belief that I have seen the act done; in other words, some part of the binding put on the bosom.

X Q. 64. When did you have the opportunity of seeing the binding put on as mentioned in your last answer?

A. I have seen binding put on or some part of it put on in Mr. Ford's back room, where he done sewing, in '68 or '69, while his store was opposite my office, in Chatham.

X Q. 65. Have you seen the same operation since Mr. Clark has been in possession of the business?

994 A. No, sir; and I shouldn't have recalled this unless you had called my attention to it—to how I knew it.

X Q. 66. I suppose at the time when you saw it the operation was a novel one to you and made an impression on your mind then?

A. Well, it was the first time; but nothing more novel about it than any other sewing with a machine.

X Q. 67. Will you please state again what was the shape of the bosoms in this first order for six shirts made for you by Mr. Ford?

A. The sides of the bosom, I think, were nearer straight than the exhibit here. I don't know whether I stated that before. I think so.

— Q. 68. Please complete the description of the shirt as to shape.

A. Why, I suppose that the upper part was rounded out to allow for the shape of the neck. I know it was. The lower end of the bosom was not rounded like this.

X Q. 69. What I desire to know is what the entire outline of the shirt bosom was?

A. I can't tell you the exact outline, because I should want the proportion. It had a top and bottom and two sides to it when it laid down, or two edges, and the two edges I referred to were quite straight. They were bound, the rest was not.

X Q. 70. There was no binding on the bottom of these shirts?

A. The first that I saw there was not.

X Q. 71. And these were the first lot ordered by you from Mr. Ford?

A. I have stated that I thought when I first saw the binding on those bound bosoms I ordered some. I think so still. Still, I may be mistaken about that, but that's my belief. To answer your question yes or no is impossible for me to say, but I do say that I am sure I ordered shirts with the bosom bound of Mr. Ford—I am sure as early as 1868—but whether the first order had the sides of
995 the bosom straight or were curved, as in the exhibit, I cannot say.

X Q. 72. Can you recall how many different styles of bosom you have purchased or ordered from Mr. Ford's or his successors' in which a binding was used?

A. No, sir; I cannot.

X Q. 73. Did Mr. Ford, or have his successors, furnished you with shirts having a bound bosom in which the bosoms had more than this one shape that you first saw, as mentioned in your answers to X Q. 69 and 70?

A. If I am right in my impression that I ordered some shirts with the sides of the bosom straight, then Mr. Ford has furnished me two kinds of bosom bound—one like the exhibit, as well as the straight-sided one.

X Q. 74. Any more than two?

A. No, sir; I think not.

X Q. 75. Were you furnished with more than one lot or order in which the bosoms were straight-sided, bound on the edges, but not bound on the bottom?

A. Not to my recollection.

X Q. 76. How soon after the first order was the second one given?

A. Can't tell.

X Q. 77. As I understand you, then, all except this first order

had the binding continuous around the bottom with that on the side. Is that true?

A. The binding run down to this tag with the button-hole in; whether it run across that I don't know; I don't think it did; I can't tell.

X Q. 78. How is it in Defendants' Exhibit A as to that matter?

A. I can't tell that without looking at it, as I never saw Exhibit A until this forenoon here.

X Q. 79. You have had Defendants' Exhibit A in your possession and under your eye during the greater part of your examination, have you not, here to-day?

996 A. No, sir; I had it in my possession about one minute while I was being examined; not since or otherwise.

X Q. 80. Did you not examine it with sufficient care to understand its construction and the arrangement of all its parts, so far as the bosom, binding, and shirt body are concerned?

A. No, sir; I only examined it to see if it was similar to those I had bought from Mr. Ford. I did not examine it and see anything peculiar in its fastening to the shirt.

X Q. 81. Are you able to state whether the bosom is inserted in the shirt body or not in the case of Defendants' Exhibit A?

A. I am not without an examination, though Mr. Ford told me years ago sometimes they were sewed fast to it and the inside was all whole, and sometimes cut out and sewed fast.

X Q. 82. How many folds do you understand there are in the binding in Defendants' Exhibit A?

A. Well, I believe there is one fold in the binding and the front of the bosom in Exhibit A, and whether there is any on the under side of that bosom I can't tell.

X Q. 83. Can you state how many folds there are in Exhibit A in the edge of the bosom layers or plies independent of the binding?

A. I could not without taking Exhibit A and ripping it up.

X Q. 84. The edge of the bosom and binding in Defendants' Exhibit A were ripped or the stitching was cut so as to expose all the parts of the bosom, binding, and shirt of Exhibit A when you examined it preparatory to giving your testimony herein and while answering the questions put on the direct examination, were they not?

A. I didn't examine the exhibit preparatory to giving my testimony here. I was never told that that was to be used on my examination until it was handed to me here after I was sworn.

997 X Q. 85. Was it not submitted to you by Mr. Raegener and Mr. Tim in the other room before you came in where we now are and commenced giving your testimony?

A. A shirt was shown me with the bosom in, in the other room. I was asked if I had bought of Ford shirts like that. I told him yes. I was not told it was an exhibit and didn't know it was. I was not told that I would be asked about it by two gentlemen whom I had never saw before to-day.

X Q. 86. You did, however, did you not, testify about that shirt on your direct examination?

A. I did. I suppose it was the same shirt that I testified about.

X Q. 87. How many lines of stitching are there in Defendants' Exhibit A inserted in the edge of the bosom, binding, and shirt body at the line where the edge of the bosom and binding meet the body of the shirt, and how many are there in the shirts made for you by Ford which, as you say, are like Defendants' Exhibit A?

A. I think I have had shirts of Ford with one and with two rows of stitching through the binding, aside from the first fastening of the binding to the bosom. If I am not mistaken in my recollection, I think Defendants' Exhibit A has but one row of stitching at the outer edge of the binding.

X Q. 88. Please mention in succession the lines of stitching and their location at or about the edge of Defendants' Exhibit A and at or about the edge of the shirts sold to you like them—first, where there was one row of stitching through the binding, and, second, where there were two. Please make the two statements independently.

A. The outside row was close to the edge; when there were two, the next one was pretty near to that.

X Q. 89. Is that all that you found in Exhibit A, and was that all that were put into the shirts sold you by Ford and which you claim were like Exhibit A?

998 A. My impression is that Exhibit A has but one row of stitching near the edge. Oh, it is not all, sir.

X Q. 90. What others?

A. The fact of their being bound is another; the shape of it is another; the fact of the binding being attached to the bosom and folded over and then folded under the edge of the bosom, and the fact that Exhibit A, so far as the bosom is concerned, looks like the twin of the shirts I wore and bought, I think.

X Q. 91. What I desire to know is how many lines of stitching are used in Defendants' Exhibit A and were used in the shirts sold to you by Ford, which you say were like Exhibit A, located at and concerned in forming, securing, and attaching the bosom plies, the binding, and the shirt body together. I want to know how many lines of stitching there are concerned in these functions in each of the shirts referred to.

A. I believe the shirts are alike, and if you will give me Exhibit A I will rip it and see. I can't without.

X Q. 92. You have given your testimony freely and made broad statements throughout your examination, both in regard to Defendants' Exhibit A and in regard to shirts made like them. I have been questioning you without submitting the shirt for your examination in making your answers for the express purpose of testing your knowledge as to how Defendants' Exhibit A is made, and by implication or comparison as to how your shirts said to have been made by Mr. Ford were made, and I still prefer that your answers should be made without an immediate inspection of the Defendants' Exhibit A, and I think I am justified in pursuing this course for the reason that during a considerable portion of your examination

this morning I saw that you had Defendants' Exhibit A in
999 your possession and repeatedly inserted your fingers in the opening where the lines of stitching were cut and apparently doing so for the purpose of inspection to ascertain how that shirt was constructed, and, as a lawyer and judge, I think you must see the propriety of my action and method of examination. With this explanation I renew my question as to how many lines of stitches there are in Exhibit A at the points referred to and how many there were in the shirts purchased by you which you state resembled Exhibit A.

A. Well, I want to answer to that that during a very small portion of my examination this morning did I have Exhibit A in my possession, and I did not repeatedly insert my fingers in any opening in it during that time. I did not examine it with a view of ascertaining the number of rows of stitching in the bosom nor in its attachment to the shirt, with any view of retaining it in my mind nor with any idea that it was at all important for me to do so; that I am not a manufacturer of shirts or bosoms. I can't tell you how they are made. I can only tell you what I see myself. For that reason I can't testify positively as to the rows in the bosom or in the shirt exhibit.

X Q. 93. Have you ever examined any of these shirts which Mr. Ford or his successors have furnished you, and in which a binding was used, by ripping up the stitching so as to enable you to examine how the several parts were laid, folded, stitched, or arranged with reference to each other, and have you done this with reference to any of the different styles of shirts purchased from Mr. Ford or his successors?

A. No, sir.

X Q. 94. Then you can hardly be qualified, can you, to testify that any of these shirts purchased of Ford or his successors were made like Defendants' Exhibit A?

A. I think I am qualified to testify so far as I can see and know; beyond that I am not.

1000 X Q. 95. I suppose you mean by your last answer that you are only qualified so far as a surface view of these shirts could qualify you. Is that so?

A. Yes, sir; that's so as to form and what it showed.

X Q. 96. Are you not aware that the material of a shirt body and a shirt bosom can be disposed in a variety of ways to have very nearly the superficial appearance of Defendants' Exhibit A and yet be made in an entirely different manner when the method of construction is carefully examined, either in the process of construction or after ripping the parts in such a way as to permit necessary inspection of the same?

A. I am not mechanic enough to answer that question.

X Q. 97. How long did you find that a half dozen of Ford's shirts would last you?

A. I judge, about nine months; perhaps a year.

X Q. 98. Your second order for shirts, then, must have been given

within nine months or a year from the date of the first order mentioned, must it not?

A. It may have been. It was given when I wanted new shirts.

X Q. 99. And, as I understand, you state that while the first order did not have the binding put on continuously around the bottom the second order did have the binding put on continuously around the bottom, and the bosom was shaped like, or substantially like, that in Defendants' Exhibit A. Is that so?

A. I didn't state so.

X Q. 100. What is the fact about it, then?

A. The fact about it is that all but the first order that I gave Ford in the years '67, '68, or '69 I believe to be substantially as Exhibit A. I do not say and have not said positively that the first order I gave had straight sides. I do say that I saw them bound
1001 with a straight side, but am not sure that I had any bound with straight sides myself; if I did not, then all were alike.

X Q. 101. And had continuous binding around the bottom?

A. My answer to that is that I have not so testified, that the binding was continuous at the bottom and across the flap with the button-hole. I don't know whether it was in my shirts or in this exhibit continuous around across the flap. It certainly was continuous down to it, as I believe.

X Q. 102. As I understand you, then, you are not prepared to testify that Mr. Ford or his successors ever actually furnished you with shirts in which the binding was continuous around the bottom of the shirt bosom?

A. I don't recollect they were continuous around that flap, as I call it, or not.

X Q. 103. Are you confident that you ever saw a shirt made by Ford or his successors that had a continuous binding on the sides and around the bottom of the bosom?

A. I can't tell whether that's so or not. My attention has never been called to that fact. If he made them I have during the time that I have spoken of.

X Q. 104. What time do you mean?

A. Why, the two years after '67. I don't refer to any of Ford's successors.

X Q. 105. Have you in your possession any receipted bills, memorandum, or other form of documentary evidence whereby you can establish the date or dates of any of your purchases of shirts mentioned in your testimony herein from Mr. Ford?

A. No, sir; I always got my things and paid for them. No bill was made or receipt given.

X Q. 106. Was it your custom to have your shirts delivered at your house or to receive them in person at Mr. Ford's shop or store?

1002 A. Mr. Ford's store was part of that time directly opposite my office—part of the time next door to my office, on the same side. I always went and got my shirts myself. So far as I know, no book account was made by Ford. I didn't run an account there nor anywhere else at that time.

X Q. 107. When was the mater of this suit and the possibility of your being called as a witness first brought to your attention and by whom?

A. Yesterday afternoon, about four o'clock, when I was subpœnaed, was the first I ever knew this suit or any other suit in this matter was pending, and the person who subpœnaed me told me about this suit, and he gave me a subpœna and I read it.

X Q. 108. Prior to the service of that subpœna upon you yesterday had you had any conversation with any one concerning the Ford shirt within the past year; and, if yea, with whom?

A. Yes; I have, with this same man, some time during the past year. I think it is the same man, Mambert; and some month or two after that, this Mr. Ford. I think there was only two parties that talked to me about it.

X Q. 109. What is this mysterious Mr. Mambert's name?

A. I don't know what his first name is. I never saw him, except that time and the time he subpœnaed me, until I saw him here in court to-day.

X Q. 110. Who was present at the first conversation you had with this Mr. Mambert?

A. I think some one came in with him to my office and introduced him to me, and left. When we talked together I think no one was with us.

X Q. 111. When was this conversation?

A. I should think that was from seven to nine months ago.

X Q. 112. Was it Mr. Clark or Mr. Ford?

A. No; it couldn't have been either of them. I know it was not Ford and I think it was not Clark.

X Q. 113. Please give the conversation in detail.

A. I can't give it in detail.

1003 X Q. 114. Give the substance of it.

A. He said in substance that he had been informed that I had bought shirts of Mr. Ford several years ago, and shirts with a bosom that was bound with linen or something, and wanted to know if I had used such shirts bought of Ford; and I told him I knew Ford used to make such shirts, and he asked how long ago it was I had seen such shirts or had such shirts of Ford, and described how they were bound; and I thought a moment and I think I told — that must have been seventeen or nineteen years ago; a good while ago, anyway; I told him when. He showed me a paper that had a diagram and some printed form of claim for a patent in giving me a description, and to see if what I recollected at all corresponded with that; and he wanted to know if I would make an affidavit of what I had stated to him of what I knew of those shirts made before. I told him I would not. I asked him if there was a suit about the patent. He told me know, there was not any. I told him what I knew and was willing to state, but I would not make an affidavit in such a thing until I was obliged to. That's substantially our talk at that time; and I never heard that there was a suit until yesterday, as I have stated.

X Q. 115. Is that the only conversation you had with this Mr. Mambert?

A. Yes, sir. I never saw him from that day until yesterday.

X Q. 116. Will you please take pencil and paper and sketch the several forms of shirts as to which you have testified of Mr. Ford's manufacture, showing the arrangement of the bosom, binding, shirt body, and stitching in the several forms of shirt and bosom, so that we may know just how they were made?

A. I am unable to make a draft of a shirt that could show just how they were made. I am no draughtsman. You look at
1004 the sample, Exhibit A, the exhibit that was shown me, and you will see substantially the form that they are made from. I can't draw it.

X Q. 117. All I want is simply the lines which would appear in sectional view if the bosom were cut directly across so as to expose the edges of all the parts and not a perspective view of the shirt.

A. I am not able to draw a picture that would show you the composition of the different parts of the bosom.

X Q. 118. Haven't you in mind at this time the relation of the different parts in the shirts made for you by Mr. Ford?

A. Yes, sir.

X Q. 119. All I want is a sectional view showing that relation.

A. Yes, sir. That sectional view is to show the different thicknesses or layers of the material of which the shirt or bosom is composed. I am unable to draft anything that would show it.

X Q. 120. You mentioned a diagram and claims of a patent as having been exhibited to you by Mr. Mambert at your first interview. Did not these consist of the drawing and specification of the Cluett shirt patent here in suit?

A. I don't know. Whatever paper there was I am pretty sure was only part of a paper—part of the claims. There was a diagram printed on a leaf or part of a leaf, but whose patent it was or professed to be I don't know.

X Q. 121. Did you state to this Mr. Mambert that Mr. Ford had made for you shirts with bosoms like those shown on the diagram, which he submitted to you?

A. I presume I did.

X Q. 122. If you did so you must have understood the diagram which was so submitted, must you not?

A. At that time I thought I did.

1005 X Q. 123. It would seem, then, to be an easy thing for you to make such a sketch of a diagram as I have previously asked you to make, or such diagrams. On reconsideration, can you not favor me with such diagram?

A. I don't see how I can. I am physically unable to draft anything respectably for inspection, and this is a thing I took no particular notice of at the time, and never thought of the diagram until I begun to tell about my interview with Mr. Mambert here as a witness, and any professed copy of it that I might make would possibly be very unlike the one I did see.

X Q. 124. What I desired was sketches of diagrams showing the

relation of the parts spoken of in the shirts made for you by Mr. Ford. Can you not now furnish me with such diagrams?

A. I have answered that before and my judgment in regard to it is not changed.

X Q. 125. Are you or any of your friends connected with or in any way interested in the business of Mr. Myron E. Clark, in Chatham?

A. No, sir; not at all.

Cross-examination suspended, and, by consent, defendants' counsel is permitted to ask further questions on the direct examination in order to allow interlocutory statements made by the witness to be put on the record.

Q. 126. What did you say about your salary being raised while surrogate of Columbia county, and in what way did that help you to recollect that before the spring of 1870 you bought bound-bosom shirts from Ford?

A. My term as surrogate commenced the 1st of January, 1868. My salary was low, and I wouldn't hold the office in Hudson, the county-seat, more than to go there one day in a week, and I
1006 moved the surrogate's office and records to my office in Chatham that spring. In the spring of '69, I am quite sure, while I was in the city of Hudson a fire broke out in Chatham and burnt up about all of the buildings on one side of the street where my office was, and came very near burning up the office and the records. The board of supervisors, on condition that I would remove the office to a place they would furnish in the city of Hudson, agreed to increase the salary satisfactory to me from the first of January, 1870, if I would move the office to Hudson. The arrangement was carried out, and in the spring of 1870 I did remove the office to Hudson. My dealing with Mr. Ford after that was hardly anything. Before the spring of 1867 I resided and had my office in the city of Albany for several years, during which absence from Chatham I did not trade at all with Mr. Ford, so that I know that what trading I did do with him was all within that period, from the spring of 1867 to the spring of 1870.

Q 127. You also said something about shirts offered to you by a drummer in Hudson, and something about liking them better, and the period referred to was about 1870. Will you be kind enough to repeat that statement?

A. I think while I was in Hudson a man came around with samples of shirts made by Ball or Ball & Company, of Troy, and I ordered from him either six or twelve shirts—I think six—and they came and were satisfactory, and I know that for two or three years after that I got my shirts of the same firm in Troy. Sometimes I came after them and ordered them myself, and sometimes they were ordered for me by my son-in-law, who resided in Troy, and during that period I procured no shirts from Mr. Ford.

X Q. 128. How long was that period?

A. I should think for three or four years.

X Q. 129. Subsequent to that time did you resume your purchases from Ford?

1007 A. I don't think that since that I bought shirts from Ford or Smith & Clark but once.

X Q. 130. How many orders in all do you think you used in which the bosom was bound?

A. I can only answer that by judging of the period of time which I have spoken of before I went to Hudson.

X Q. 131. You don't remember, then, more than one order distinctly, do you?

A. I do remember more than one order for such shirts, and believe there was at least three. I don't know that the last order I gave to Ford or Smith & Clark was for these bound-bosom shirts, but I am inclined to think not. This last order I speak of is not one of the three; it was after I came from Hudson, and some years after.

X Q. 132. Did this last order have the bound bosom?

A. I don't think it did, because I got tired of them and thought they were too heavy—stiff.

X Q. 133. What was the date of that order, the last one?

A. Well, I should think it was about five years ago.

X Q. 134. What sort of shirts were furnished you by Ball Brothers?

A. They were lighter shirts—the bosom was lighter—not so thick and heavy, and I don't recollect that they were bound bosoms.

X Q. 135. They may have been, may they not?

A. I have no idea that they were. I have no recollection absolutely that they were not.

Sworn to before me this 18th day of February, 1886.

—— ——

Examination of this witness suspended till 1.45, Friday, ——19, 1886.

TROY, *February 19th*, 1886.

1008 Cross-examination of HUGH W. MCCLELLAN resumed at 2 p. m.

Present: Same parties.

X Q. 136. On your return to your residence over night have you searched for specimens of a bound-bosom shirt manufactured for you by Ford or his successors; and, if yea, with what result?

A. In pursuance of your letter this morning, which I received, I went to my house a little after eleven o'clock and made a search and found in my garret, among some old rags, the remains of shirts that I bought of H. M. Ford at the time spoken of on my former examination—before the spring of 1870, as I confidently believe—and all the portion that is fit to be produced in court is here and it is just the shape in which I found it, except some portions of the body of the shirt which was ragged and filthy, which I cut off.

X Q. 137. Will you please mention the names of the several parties from whom you purchased bosom shirts from 1867, when you returned to Chatham, to 1880, as near as possible in the order of purchase?

A. Before I returned to Chatham, in 1867, my shirts were uni-

versally made in my own family, except the bosoms, which were ordinarily bought and put in by them, and from that spring of 1867 until I purchased from this drummer or agent of Ball, of Troy, my shirts were all bought of Mr. Ford, at his store in Chatham. The next after that that I purchased were purchased of Mr. Ball, and since that time I have had my shirts purchased at stores ready-made principally—from no manufacturer that I could name—and upon reflection and conversation with my family in regard to it I am very sure that I never had shirts with a bound bosom from any one but Mr. Ford. I left out one purchase that I did make, and I think was made of Mr. Clark not quite five years ago. That was not a bound bosom.

1009 X Q. 138. About how many times did you purchase of Ball Brothers?

A. I can't tell. I am sure of three, and I think more. Twice I myself was at their place and got them and paid for them at the time. Once they were sent to me—the first purchase that I made—and I think my son-in-law bought some for me there once or more.

X Q. 139. Were these made to order?

A. I think so, at Ball's, but I was not measured any time.

X Q. 140. About what was the date of the last purchase of Ball Brothers?

A. Well, it's mere guess-work, but I should think probably in 1874 or 1875.

X Q. 141. You have no means of fixing the date of the manufacture of the shirt of which you have produced the bosom and a part of the placket beyond your general recollection, have you?

A. No, sir; nothing, except from circumstances.

X Q. 142. While you had your office in Hudson you were still a resident of Chatham, were you?

A. No, sir; I removed my family to Hudson and resided there two years.

X Q. 143. What is the name of the son-in-law who ordered your shirts of Ball here?

A. The one, I think, who ordered the shirts—the only son-in-law I had at that time—was Louis Potter.

Cross-examination suspended.

Redirect:

R. D. Q. 144. The shirt bosom to which you have referred to in your previous answers and for which you looked this morning at the request of Mr. Skilton and which you found in your garret has the mark of the maker. Please read the same to us.

1010 A. The reading on it reads: "H. M. Ford, shirt-maker, Chatham village, New York."

The shirt bosom is offered in evidence and marked Defendants' Exhibit McClellan Shirt, February 19, 1886, J. M. L., U. S. C.

R. D. Q. 145. How do you recognize that shirt bosom?

A. I know that this is the shirt I wore years ago from the fact

that there is a single hole made in it, worn through the bosom, in which I used some studs that went in with a screw. There are two such holes made in it.

Cross-examination resumed:

X Q. 146. With the exception possibly of the first order you gave Mr. Ford for shirts, which may have been straight at the sides of the bosom and unbound as to the bottom of it, as to which you seem to be uncertain, were all the other bound-bosom shirts purchased by you from Mr. Ford like Defendants' Exhibit McClellan Shirt, or, rather, were the bosoms of such shirts made like the bosom marked as above as to the strip on the edge of it and the body of the shirt at the back of it?

A. They were not. Answering that as one question, those that I got latterly all had a tab at the end with a button-hole, and my reflection about it and seeing this shirt requires me to say that I believe now that that was on one of the shirts that I first ordered from Ford.

X Q. 147. When?

A. I can't answer that any more definitely than I did yesterday. It may have been in 1867. If it was not, I am sure it must have been in 1868 or 1869.

X Q. 148. Then you are now confident that you never 1011 bought from Mr. Ford any shirts with a square bosom or straight sides and bound on the edge; is that correct?

A. That is your question. I told you what I thought yesterday, and I tell you to-day, on reflection, what I thought about it.

X Q. 149. I wish simply to make it clear whether you think to-day, after reflection and consultation with your family, that your first purchase of shirts from Ford were bound on the bosom and had straight sides or not?

A. To-day I doubt in regard to my first purchase being straight-side bosoms, although I have no doubt that I saw such shirt bosoms at Ford's.

X Q. 150. As I understand you, then, one means of identifying the shirt of which the Defendants' Exhibit McClellan Shirt is a part as the earlist purcha-e from Mr. Ford is the fact that the later purchases from Mr. Ford had at the bottom of the bosom a tab with a button-hole in the same, whereas the earlier purchases did not have any tab?

A. Yes.

X Q. 151. I now present for your examination the Exhibit McClellan Shirt and ask if you still think your statement is correct and your inference therefrom?

A. Well, this may have had a tab on.

X Q. 152. Then you are mistaken?

A. If so, that inference won't amount to much. There was none on it when I first saw it to-day. If there ever has been one on it I never took it off.

Counsel for complainants here asks the commissioner to certify

whether the Exhibit McClellan Shirt was or was not provided with a tab when originally made, or is it not now provided with a tab or a portion of the same, or what the real state of the exhibit now is as to being provided with a tab at the bottom of the bosom.

1012 Defendants' counsel now hands to the commissioner all the exhibits, including the McClellan shirts, which have been made exhibits in this examination here before him, and requests the commissioner to take charge of the same, together with the evidence, certify to the same properly, seal the same, and send it to the clerk of the circuit court of the southern district of New York, in accordance with the rules on this subject.

The commissioner says he takes formal possession, and they are already marked with my initials, and will take charge of them until I send them to the clerk of the circuit court of the State of New York, as required by law.

Counsel for complainants states that on examining the Exhibit McClellan Shirt he finds that apparently the shirt of which this exhibit is a part had a tab inserted in the usual manner, the external portion of which has been at some time removed or cut off and the inner end of which still remains attached to and forming a part of the exhibit and lying between the bosom and the shirt body at the lower part of the bosom; and counsel for complainants calls the attention of the commissioner, of the witness, and of the counsel and solicitor for defendants, and of Mr. Robert Cluett, here present, one of the complainants in this case, to the facts here stated.

The witness states that the exhibit marked McClellan Shirt has not been out of his possession until brought into court to-day, and that, so far as ths tab is concerned, if it ever had one, it is precisely as witness saw it to-day; that the witness never knew or saw, to his knowledge, prior to yesterday, when he first saw one of the complainants, any of the parties or counsel in this action, and that he has known the shirt has never been tampered with by any person whatever, nor by the witness.

1013 X Q. 153. Recurring to the interview you had some months since with Mr. Mambert, who showed you a paper or part of a paper, was not the paper that he showed you in fact an affidavit or the draft of an affidavit or a part of an affidavit made or to be made by Mr. Clark?

A. I never recollected seeing an affidavit of Mr. Clark or anything purporting to be that.

X Q. 154. Were you told by that gentleman what Mr. Clark had said or would testify to in the matter?

A. I don't think I was.

X Q. 155. May have been?

A. I may have been, but I have no recollection of it.

X Q. 156. What is the date of that interview?

A. I answered that once as near as I could. I think I said eight or nine months ago; I can't tell any nearer.

X Q. 157. Did Mr. Clark make an affidavit at that time or any other time before you in this matter?

A. I have forgotten if he did; I can't tell you. I take a great many affidavits.

X Q. 158. Please examine the paper now submitted to you, Clark affidavit No. 1.

A. That affidavit is sworn before me and made by me; I recollect drawing it. This is Clark's affidavit 1, and that refreshes my recollection a little.

X Q. 159. I now submit Clark's affidavit No. 2 and ask if you recognize anything about that?

A. I never saw that before.

X Q. 160. Was the Clark affidavit No. 1 drawn by you at the time of your interview with Mr. Mambert?

A. I have no doubt it was done on the same day of my interview with Mambert.

X Q. 161. What did Mr. Ford say to you on the subject of the Ford shirt subsequent to the interview with Mr. Mambert, as stated in your answer to cross question 108?

1014 A. I believe I have not given any conversation.

X Q. 162. Please give it now.

A. Well, in substance it was this: He inquired if I had seen anybody or been seen in reference to the shirts he used to make with bound bosoms. I told him I had, and the person I wanted should make an affidavit, and I told him that I would not. He said he was glad of it. He said he had been in business, and it was an attempt to steal from him what he made, and he believed he was the first one who ever did make it, and he hoped I wouldn't make any affidavit. I told him that I didn't intend to.

X Q. 163. Is that all?

A. That is substantially all.

X Q. 164. You have always had a friendly feeling toward Mr. Ford, I suppose?

A. Yes, sir; I never had any dispute with him; personally friendly, politically opposed.

X Q. 165. As stated in answer to your cross-question 95 and elsewhere, you judged of the construction of the Ford shirt from the surface appearance and without ripping up the parts for examination, I believe?

A. That is so generally, for once I saw them putting the binding on.

X Q. 166. I now submit for your critical examination a shirt bosom and shirt, and ask you to say whether or not the edge of the shirt bosom is formed in a manner similar to that of Exhibit A and the Exhibit McClellan Shirt or not?

Objected to by defendants' counsel on the ground that the witness is not an expert and has not been shown to be such.

1015 Question continued: My question is intended to include the seams or lines of stitching and method of attaching the bosom to the shirt body.

Same objection.

A. That is a question I couldn't answer without ripping up your shirt.

X Q. 167. My question calls for an answer and a statement of opinion formed in the same manner as the opinions given in reference to Ford's shirts in cross-queston 95 and elsewhere from the surface appearance of the shirt and bosom. What I want to know is whether the shirt and bosom of the shirt submitted are not made and secured together in the same way as the two exhibits referred to?

Same objection.

A. I can't tell.

X Q. 168. Please point out any differences you discover from a superficial examination.

A. I don't know and can't see in all of the exhibits how the binding is attached. Some I can and some I can't; some are ripped and some are not; those that are ripped I can, the others I can't.

X Q. 169. What I want to know is whether, as far as surface appearance is concerned and without ripping, they do not appear to be made and secured in the same manner?

A. They appear to be made and secured in a similar manner is the most I can say about them.

X Q. 170. Will the witness please mark the bosom of the shirt submitted to him with his name and the date, for identification?

A. I have done so.

And the same is also marked by the commissioner Com-
1016 plainants' Exhibit, for identification, J. M. L., U. S. C., Feb. 19th, 1886.

Testimony closed.

HUGH W. McCLELLAN.

Sworn to before me this 19th day of February, 1886.

J. M. LANDON,
United States Commissioner, Troy, N. Y.

In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.*

NEW YORK, *March 20th*, 1886.

Parties met, parsuant to notice, at the office of Leopold Turk, a notary public, at No. 25 Chambers street, N. Y. city.

Present: James A. Skilton, of counsel for complainants, and Louis C. Raegener and David Tim, of counsel for defendants.

ISAAC WALLACH, a witness produced on the part of the defendants, being duly affirmed, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Isaac Wallach; I am 45 years of age; re-
1017 side at No. 12 East 62d street, New York city, and a shirt manufacturer; a member of the firm of H. Wallach's Sons, 38 and 40 Thomas street, New York city.

Q. 2. How long have you been engaged in the business of manufacturing shirts?

A. Since 1861.

Q. 3. Please describe the kind of woolen shirts that you made during the early period of your experience as a shirt manufacturer.

Question objected to as immaterial and irrelevant.

A. We made all kinds of woolen shirts in a variety of fabrics and a variety of makes. Some of them were made single-breasted and others double-breasted. It was a general feature in the trade to bind the bosoms of both classes with galoon bindings. The first class of goods we made them in was in gray flannel shirts—fabrics part cotton and part wool. We made them during the war, between the years 1861 and 1865. The process of making the shirt, especially in the double-breasted shirt, was the following: The body of the shirt was cut open for the ordinary opening of the shirt. A bosom, usually of a shield shape, was lined sometimes halfway through to the center of the bosom, at other times all the way through. The bosom was bound usually with a galoon binding, by which means the two thicknesses were secured. The bosom was then attached with a line of stitching to the body of the shirt. The part overlapping the one-half of the body to which the bosom was attached, when the shirt was open and unbuttoned, showed the lining or facing as a finish to the shirt. In later years I can remember distinctly in the Grant campaign—whether it was the first or second term to which he was elected I will not swear—but in one or the other
1018 campaign, in 1868 or 1872, this character of shirt was introduced in the trade and manufactured by our establishment as a campaign shirt. These campaign shirts had fancy devices embroidered in the bosom, which was attached to the shirt in the manner I have described. In addition to these devices the campaign shirts usually had the initial letters of the candidates, or the full name in some instances, embroidered by machine into the bosom. The fancy devices consisted of flags, shields, and other patriotic emblems suitable for the kind of shirt that was being marketed by the trade. This class of manufacture has become general in the trade since then, and while but few are sold to the general trade they have since then been manufactured in each and every subsequent campaign since the election of Grant.

The same objection is repeated to the answer.

Q. 4. In what quantities did you manufacture and sell these shirts referred to in your previous answer?

A. In large quantities—hundreds of dozens.

Q. 5. About how many workmen do you employ at present?

A. Over a thousand.

Q. 6. I see that you have one completed woolen shirt and three woolen bosoms. Does your testimony describe this variety of woolen shirt?

A. It does.

The shirt and the three bosoms are introduced in evidence and marked "Isaac Wallach Shirt No. 1, Bosoms Nos. 1, 2, and 3, L. T., N. P., March 20th, 1886."

Cross-examination by Mr. SKILTON:

X Q. 7. Without withdrawing my previous objection I put the following question in cross-examination *de bene esse:* When
1019 was the woolen shirt which you have produced here and which has just been put in evidence, marked "Isaac Wallach Shirt No. 1," made?

A. A year ago.

X Q. 8. Have you in your possession any shirts of like make or method of construction, so far as the alleged bosom binding or shirt body are concerned, which was made prior to November 17th, 1874?

A. This shirt is made like those made during the period in my direct testimony referring to the shirt made during the war, up to 1865. I have no shirt in my possession which was actually made before 1874.

The first sentence of the last answer is objected to as irresponsive and irrelevant.

X Q. 9. Whose original invention or design was the style of shirt like Defendants' Exhibit "Isaac Wallach Shirt No. 1," if you know?

A. It was generally introduced in the trade. It was not looked upon as an invention at the time—simply the application of a binding to a double-breasted woolen shirt. If my memory serves me, a man by the name of M. Moritz Price, who employed hands outside in a shop of his own, made some of this class of goods for us prior to 1872.

X Q. 10. For what trade and for what class of customers were these kind of shirts made prior to 1865 or the close of the war?

A. For the general trade. Many of them, especially those that were made of gray flannel, were bought up by contractors for supplies for the Union forces. This was in the early part of the war.

X Q. 11. You are referring now, as I understand you, to the double-breasted shirt like that put in evidence and marked "Defendants' Exhibit Isaac Wallach Shirt No. 1"?

1020 A. It was made that way in every feature, so far as the bosom of the shirt is concerned.

X Q. 12. What was the location of the line of stitching which secured the shield-shaped piece to the shirt body?

A. I would not swear whether it was through the binding or at a line inside of the binding. My impression—it is not a recollection, but an impression—is that the line of stitching to attach the

bosom to the body ran both ways, depending at times on the accuracy and expertness of the operator.

X Q. 13. Do you consider that it is immaterial whether this line of stitching goes through the binding or only through the layers of the shield-shaped piece in accomplishing the securing of that piece to the shirt body; or, in other words, that it amounts to the same thing practically in both ways?

A. I do not. So far as strength is concerned, I think the result is about the same. The difference is in effect and finish, and which, so far as appearance is concerned as being affected by the stitching, depends upon the width of the binding.

X Q. 14. What was the intention of the designer of this shirt made and sold during the war as to the position of this securing line of stitching?

A. I could not say.

X Q. 15. Was this location a matter of indifference and did it depend to some extent on the accidental handling of the workmen?

A. It was not a matter of indifference.

X Q. 16 What was the intention, then, to have the line of stitching on the binding or off it?

A. From the construction of the shirt and the fabric used, I should say the intention was to have the line of stitching inside, alongside the binding and not through it.

X Q. —. What I want to know is what was actually done and not your inference.

1021 A. I will state that they were made both ways. The woolen shirts at that time were not made so particularly as they are now, although the prices were higher. Most of them were made outside by small operators and manufacturers who ran small shops. These would take them out and return them to us made. I do not think there was any special instruction given as to the line of stitching by our foreman, the generul instruction being to attach the bosom to the body on or about the binding. The goods being made in various places and in different shops, some would come back with a line of stitching through the binding, some inside alongside the binding, and oftentimes a bosom would be done half one way and half another way, which was due at times to the inexpertness of the operator or the binding slipping off from the binder.

X Q. 18. Were these shield-shaped pieces which were secured to the fronts of these woolen shirts prior to November, 1874, attached to the body of the shirt in other respects as in the Defendants' Exhibit "Isaac Wallach Shirt No. 1"?

A. I think they were.

X Q. 19. And were the shield-shaped pieces made and bound in the manner shown in Defendants' Exhibit "Isaac Wallach Shirt No. 1"?

A. They were.

X Q. 20. Was the same sort of binding used and were the layers of material arranged and secured in the same manner?

A. In nearly all cases the binding was of the same character, in different colors.

X Q. 21. Was the binding folded in the same manner as shown in Defendants' Exhibit "Isaac Wallach Shirt No. 1," and also in the Defendants' Exhibit "Isaac Wallach Bosoms Nos. 1, 2, and 3"?

A. It was folded in the same way."

1022 X Q. 22. Referring to your answer to X Q. 18, where you say "I think they were," are you uncertain or doubtful whether they were?

The notary is requested to read X Q. 18 to the witness again.

A. They were, with the modification in my other answer, that the stitching may sometimes have been through the binding, and at times inside alongside of the binding, as I have explained.

X Q. 23. With the exception of this variation just mentioned, I understand you that in the shirts as to which you have testified to their being made prior to November, 1874, the shield-shaped pieces were made, bound, and secured to the shirt in the manner shown in Defendants' Exhibit "Isaac Wallach No. 1." Is that correct?

A. It is.

X Q. 24. In your answer to Q. 3 you speak in the first part of it of single-breasted woolen shirts. You do not mean to say, I suppose, that any shield-shaped pieces were made and applied to the front of that shirt?

A. No. The box pleat was bound in those.

X Q. 25. But there was no bosom?

A. No; no supplementary bosom. None but what the body of the shirt furnished.

X Q. 26. In these shirts made prior to 1874, was the second line of stitching, which appears in Defendants' Exhibit "Isaac Wallach Shirt No. 1" about an inch from the binding, used or employed in the manufacture?

A. Most generally, yes; as a finish to the shirt.

ISAAC WALLACH.

Affirmed before me 20th day of March, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

[SEAL.]

1023 In the United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.*

NEW YORK, *March 20th*, 1886.

Parties met, pursuant to adjournment, at the office of Leopold Turk, a notary public, No. 25 Chambers street, N. Y. city.

Present: James A. Skilton, of counsel for complainants, and Louis C. Raegener and David Tim, of counsel for defendants.

ISAAC FRANK, a witness produced on the part of the defendants, *between* duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Isaac Frank; I am 50 years old; my residence is 112 East 79th street, New York city; my occupation is that of a shirt manufacturer, and I am a member of the firm of Isaac Frank & Co., doing business at 47 and 49 White street, New York city.

Q. 2. How long have you been engaged in the shirt business?

A. Since 1865, in this city.

Q. 3. What kind of shirts did you manufacture in 1865?

A. I manufactured white shirts, fancy shirts, and woolen shirts?

Q. 4. Describe the white shirt that you made about 1865, having particular reference as to the bosom.

1024 A. That time we manufactured principally open-front shirts—open in the bosom, with pleated bosoms.

Q 5. Please describe the manner in which the pleat you refer to was made and how it was attached to the bosom of the shirt.

A. The bosom was made first, and then was sewed on the shirt. The bosom itself was already pleated, and then the end of it was sewed on the shirt.

Q. 6. Was it bound prior to its being attached to the shirt? If so, please describe binding and attachment in detail.

A. The center pleat of the bosom was bound before it was put on the shirt; then it was put on the shirt with a row of stitching and sometimes with two rows of stitching, according to the quality of shirt and to the requirements of its making. The binding would go all around from the neck to the tab—that is, around the centre pleat—that is, the centre pleat would be entirely bound.

Q. 7. Please describe what you mean by the centre pleat.

A. It is part of the bosom in the centre, extending from the neck all the way down to the tab, about two inches wide.

Q. 8. About how many of these skirts just described did you manufacture in one day about this time?

A. At that time, I should think, about 100 dozen a day.

Q. 9. After they were manufactured what became of them?

A. We sold them to the trade.

Q. 10. When did you commence to manufacture flannel shirts?

A. At the same time.

Q. 11. Please describe the kind of flannel shirts you made

1025 at the time referred to, having particular reference to the bosom and its attachment to the body of the shirt.

A. We made double and single breasted flannel shirts. They had the bosoms of the double-breasted, also of the single-breasted, bound with binding or some other material, such as all-wool delaine. We cut those in strips and bound the bosoms. We then put the bosom on the shirt, stitched the bosom down with one and sometimes with two rows of stitching.

Q. 12. What was the shape of the bosom when cut?

A. We had them in square and shield shape.

Q. 13. After the bosom was attached to the body of the shirt how many rows of stitching were visible upon the bosom?

A. Two or three. It depended on the width of the binding and the quality of the shirt.

Q. 14. How many rows of stitching were visible upon the binding after the bosom was attached to the body of the shirt?

A. Two rows of stitching—sometimes three.

Q. 15. Question repeated.

A. I thought you meant on the bosom; but on the binding would be either one or sometimes two rows of stitching.

Q. 16. In what quantities did you manufacture these shirts at that time?

A. Sometimes 100 dozen a day and sometimes more and other times less, according to the demand.

Q. 17. What became of these shirts after they were manufactured?

A. We sold them to the general trade.

Q. 18. Do you know of any firm or firms who manufactured shirts similar to those described by you in your testimony at or about the same time you were manufacturing these shirts?

A. Nearly all the shirt manufacturers here in the city at 1026 that time, such as H. Wallach's Sons, K. Wallach, V. Henry Rothschild now (I think at that time it was Rothschild Brothers), Strouse & Sons; others that I cannot think the names of, manufactured the same shirts.

Q. 19. Please look at "Defendants' Exhibit Isaac Wallach Shirt No. 1, L. T., N. P., March 20th, 1886," and state whether it resembles or is different from the flannel shirt as manufactured by you and to which you have testified herein.

A. It resembles and is the same as the shirt I manufactured and testified to.

Cross-examination by Mr. SKILTON:

X Q. 20. When did you first manufacture white shirts—that is, when did you begin to manufacture white shirts?

A. In 1865.

X Q. 21. Was the white shirt of which you have spoken in your direct testimony an open-front shirt?

A. Yes, sir.

X Q. 22. Was it open in the centre of the bosom?

A. Yes, sir.

X Q. 23. Did the binding extend across the bottom of the center pleat or only down to the lower end of it?

A. It extended across—all around.

X Q. 24. Did the centre pleat have binding on both sides of it or only on the outer edge?

A. On both sides.

X Q. 25. Was the centre pleat composed of a separate piece of cloth different from the rest of the bosom?

A. It was a separate piece and then sewed on the bosom.

X Q. 26. Please make a diagram showing how the pleat was bound, how it was secured to the bosom, how the rest of the bosom was made, and how the bosom with the pleat was secured to the shirt.

1027 A. The bosom-maker made our bosoms—made all our bosoms—that is, for white shirts. I don't know how to make a diagram, because our bosom-maker made those bosoms for us.

X Q. 27. If you are unable to make a diagram of the bosom and shirt, please make a sketch in sectional view showing how the layers of the centre pleat, of the binding, of the bosom, and of the shirt were arranged or disposed in relation to each other.

A. I cannot make a sketch. Our bosom-maker attended to that part and made the bosoms for us complete.

X Q. —. What I want is a diagram, and also a sketch which shows what your present recollection is as to how the white shirt mentioned in your direct testimony was made in the respects stated in the previous questions. Are you able to give them?

—. I can neither give you the diagram nor sketch, as we never found it necessary for us to make any bosoms, as our bosom-maker always made new designs and bosoms for us, for which we paid him.

X Q. 29. The bosoms, then, which you have described in your previous testimony were not made by you or your firm, were they?

A. No, sir; we had them made by the bosom-maker.

X Q. 30. What was the name of the bosom-maker who made them?

A. We had two. I think Van Buren was the name of one, and Stevens the other.

X Q. 31. Please give the full name and address of each one of these parties—I mean their address of that date and also the present date.

A. I don't remember the full names. I'll have to look it up. I don't know the addresses now or then. I suppose I have it in my book.

X Q. 32. Will you search for it and give it to us later on if you find it?

A. I will try and find it.

X Q. 33. Do you now recall or remember exactly how the

1028 layers of the centre pleat, of the binding, and of the bosom were disposed or arranged in relation to each other in these white shirts mentioned in your direct testimony? And, if you do, please describe it accurately.

A. The bosom was always brought in ready made. How the bosom-maker did it I can't tell you. It was as I said before in my testimony. The bosom was that way.

X Q. 34. Please take a pencil and draw for me lines to show in sectional view how the layers of the centre pleat and of the binding on each edge of the same were arranged, disposed, or related. I don't ask now as to the entire bosom, but only as to the edges of the centre pleat and the binding thereof.

A. I cannot draw any sketch, as I said before. I can only repeat the same statement in regard to the binding of the centre pleat.

X Q. 35. Please take some pieces of paper and cut, fold, and pin the same together in such a way as to show how these bosoms of these white shirts were constructed.

A sheet of paper is tendered to the witness for the purpose.

A. I never done that, as it takes a bosom manufacturer to do that. It is a business for itself.

X Q. 36. Are you unable to do it?

—. ——.

X Q. 37. If you are able to do it, please make such a model as I I have asked for in X Q. 35.

A. I cannot do it.

X Q. 38. Isn't it clear in your mind how it was done in the shirts mentioned in your testimony?

A. It is clear in my mind how the bosom and shirt looked when they were done.

X Q. 39. Is it clear in your mind how the different layers of material were disposed when done?

A. Certainly; that is perfectly clear.

1029 X Q. 40. Well, then, either give me a sketch of it or in some way describe it, so that it will be just as clear to us as it is to you.

A. I cannot give you a sketch of it, but I can get you a shirt made and bring it here so you can see how it is. I am not a bosom-maker. We always had our bosoms made outside.

X Q. 41. Well, please describe it, then—that is, give us the same description that you would give in giving your instructions for the making of such a shirt.

A. I'll get you a shirt made and bring it here.

X Q. 42. Are you unable to give us the description that you would give for the making of such a shirt?

A. I think I am able to know what I want.

X Q. 42. Well, then, please state it, that it may be put on the record here in this case in connection with your testimony.

A. I would tell my bosom-maker to make me samples of one, two, and three pleat bosoms, centre pleats bound of different binding, also of other corded and other styles of bosom, corded centres, plain bosoms bound all around with two and three and four stitches and corded fronts, and I would select from them which I thought would be the best for my market.

X Q. 44. What do you mean by best for your market?

A. For the part of country we sell them to.

X Q. 45. You have given your testimony here about a white shirt made by you about 1865, and I am endeavoring to ascertain from you how that shirt was made. I have asked you for diagrams, sketches, and descriptions. If you are able to make either diagrams, sketches, or descriptions showing this, and in answer to my questions, please do so, but I do not care to know about what you would do for the market now.

1030 A. I cannot make diagrams or sketches, as our bosom-maker attended to making the bosoms. As to the description, we have our shirts cut, and our bosoms come in from the bosom-makers, and we give them out to the shirt-makers to make and finish.

X Q. 46. Was this the course pursued by you in 1865?

A. Yes, sir.

X Q. 47. Who was your cutter at that time?

A. I do not remember.

X Q. 48. What was the color of the binding mentioned in your answer to Q. 6 and what was the material?

Question 6 and answer read to witness.

A. There was different colors—sometimes figured, sometimes plain blue; whatever we thought was the best, according to what the shirt was made out of.

X Q. 49. You have not stated the material. Please do so.

A. It was cotton, percale, or cambric.

X Q. 50. What was the material of the bosom?

A. Either linen or cambric.

X Q. 51. Were the woolen shirts or flannel shirts mentioned in your direct testimony cut, made, and bound, as to the shield-shaped pieces, precisely like "Defendants' Exhibit Isaac Wallach Shirt No. 1, L. T., N. P., March 20th, 1886"?

A. They were made some exactly like that and others with straight bosoms—square.

X Q. 52. Did the flannel shirts of which you have testified in your direct testimony have the same binding put on in the same way as "Defendants' Exhibit Isaac Wallach Shirt No. 1, L. T., N. P., March 20th, 1886"?

A. Yes, sir; might be in different colors. We had blue and purple bindings sometimes.

X Q. 53. Have you got a shirt in your possession or do you
1031 know where there is a shirt of all of the hundreds of dozens you say you have made and sold prior to 1874 of the white shirt mentioned in your direct testimony?

A. I haven't any, nor do I know where I could find any one.

This examination is suspended to enable the witness to ascertain the names and addresses of the bosom-makers referred to in his testimony.

LOUIS FRANK, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Louis Frank. I am 64 years old. My residence is 632 Lexington avenue, N. Y. city. I am in the shirt business, and am a member of the firm of Louis Frank & Son, 106 Franklyn street, N. Y. city.

Q. 2. How long have you been engaged in the shirt business?

A. I guess I went into that business in 1853 or 1854.

Q. 3. Were you at any time in partnership with Isaac Frank, the witness whom you saw here this morning?

A. Yes; sir.

Q. 4. When?

A. In 1864 or 1865; somewheres about that, for three or four years.

Q. 5. In what business were you and he engaged together?

A. Shirt business.

Q. 6. Please state what kind of shirts you manufactured or dealt in while you were a partner of Mr. Isaac Frank.

A. We made white shirts, overshirts, and flannel shirts. Some call overshirts flannel shirts.

1032 Q. 7. Please describe the kind of white shirts that you dealt in while you were a partner of Isaac Frank, having particular reference to the bosom and the mode of its attachment to the body of the shirt.

A. We made some with one pleat and some with two pleats; some with six pleats and maybe some with five. We made some with cord on the edge of the pleat and some with bindings around. Some had collars and some none.

Q. 8. Please state to what part of the bosom the binding was attached.

A. It was put on the centre piece.

Q. 9. What do you mean by the centre piece?

A. The centre pleat.

Q. 10. To how much of the pleat was the binding attached?

A. To both sides, up and down.

Q. 11. How many rows of seams would there appear upon the binding after the pleat was attached to the bosom?

A. Two rows of stitching; maybe three.

Q. 12. About how many dozen of these white shirts did your firm make at that time a day or week?

A. Fifty to 100 dozen a day sometimes. Some weeks we didn't make any.

Q. 13. What became of these shirts after they were manufactured?

A. We sold them to the trade.

Q. 14. When did you commence to manufacture flannel shirts?

A. I guess we made flannel shirts in 1856 or 1857.

Q. 15. Describe the kind of flannel shirt that you made in 1856 or 1857, having particular reference to the bosom and its attachment to the body of the shirt.

A. We made a centre piece and had it bound with worsted binding and had it put on the shirts.

Q. 16. What was the shape of the centre piece after it was cut out?

1033 A. It was straight cut down, about 3 or 4 inches wide, and the bottom was rounded.

Q. 17. Was there any other shape?

A. That was single-breasted. We also made them double breasted.

Q. 18. What was the shape of the double-breasted bosom after it was cut?

A. It was pretty near square-shaped; a little round at the bottom.

Q. 19. Describe the appearance and make of the double-breasted flannel shirts as made by you at the time referred to, having particular reference to the bosom and its attachment to the body of the shirt.

A. The bosom was bounded all the way round with worsted bindings, and was laid on—sewed onto the body of the shirt.

Q. 20. How many rows of stitching were visible after the bosom was attached to the body of the shirt?

A. There were some with one stitching, some with two, and some with three, according to the price they paid.

Q. 21. How many rows of stitching were on the binding after the bosom was attached to the body of the shirt?

A. According to the width of the binding, one or two.

Q. 22. In what quantities did you manufacture or sell these flannel shirts at the time referred to?

A. We made them up in 50-dozen lots a day, and then we would sell them to the trade.

Q. 23. While you were in partnership with Mr. Isaac Frank did you deal in the same kind of flannel shirts as you have just testified to?

A. Pretty much the same.

Q. 24. Look at "Defendants' Exhibit Isaac Wallach Shirt No. 1, L. T., N. P., March 20th, 1886," and say whether it is like or
1034 different from the flannel shirts that you manufactured or sold at the time testified to.

A. We made them exactly like it.

Q. 25. Were shirts like those you have testified to, both white and flannel, made by other firms at or about the same time that you were engaged in making or selling them?

A. Yes, sir.

Cross-examination by Mr. SKILTON:

X Q. 26. Have you in your possession or do you know to be in existence at this time any of the actual shirts as to which you have testified?

A. No, sir.

X Q. 27. Can you make a diagram showing how any of these shirts were made?

A. No, sir; I can't make one. Our foreman does that.

X Q. 28. Are you engaged in the shirt manufacture now?

A. Yes, sir.

X Q. 29. Are you related to Isaac Frank?

A. No, sir; but his wife is related to me.

X Q. 30. You say in answer to Q. 8 that the centre piece had binding attached to it. Please describe the manner of attachment and how the various parts were arranged and related.

A. The centres were cut separate from the shirts and were binded after they were cut, and then were sewed on the shirts.

X Q. 31. What were sewed on the shirts?

A. The centre piece with the binding.

X Q. 32. Was that done after the shirt was made?

A. I guess they were. They were made by our hands. I don't know.

X Q. 33. To what part of the shirt were the bound centre pieces sewed?

A. To the centre of the bosom.

1035 X Q. 34. How was the vest of the bosom made?

A. Some of them were made with pleats—various size pleats.

X Q. 35. How were the bosoms secured to the shirts?

A. They were sewed in by machine.

X Q. 36. How? Were they sewed onto the outside of the shirt body?

A. I guess they have a way to sew them on. I don't know whether it's out or in.

X Q. 37. Do you know how the layers of material were disposed or arranged—I mean the material of the shirt and the bosom?

A. They were cut out and given to the hands to make.

X Q. 38. How many lines of stitching were used to secure the bosom to the shirt?

A. Two rows of stitches.

X Q. 39. Where were they located?

A. On the edge of the bosom.

X Q. 40. Was there any binding at the edge where this stitching was?

A. In some of them.

X Q. 41. How was this binding arranged with reference to the bosom and the shirt body?

A. It was bounded round the bosom and sewed onto the shirts.

X Q. 42. How was the binding put on?

A. It was put on the bosom.

X Q. 43. When was it put on—before or after the bosom was secured to the shirt?

A. It was put on when the bosom was made.

X Q. 44. At what time were such bosoms made and the shirts for them—that is, when did you make shirts of this kind?

A. We made them years ago—about the time we spoke of—in 1857, 1858, or 1859.

X Q. 45. Are you now referring to shirts such as you referred to in your direct testimony when Mr. Tim was questioning you?

1036 A. Yes, sir.

X Q. 46. And the shirts you have last described are such as you described in your direct testimony, are they?

A. Yes.

X Q. 47. Did you make such shirts as these while you were in partnership with Isaac Frank?

A. Yes, sir.

X Q. 48. Did these shirts have binding on the centre piece also—that is, as well as on the edges of the bosom?

A. Not all of them; some of them.

X Q. 49. In the previous answers where you have mentioned binding as being used on the edge of the bosom, what kind of shirts have you referred to—white shirts or flannel shirts?

A. Flannel shirts only.

X Q. 50. Well, in the white shirts, then, in which the centre pleat was bound as you have stated, was there any binding on the edge of the bosoms?

A. No.

X Q. 51. How were the edges of the bosoms of the white shirts secured to the shirt body and how was the material folded at the edges of the bosoms?

A. They were doubled up at the edges and sewed in, some with one, two, and three rows of stitching.

X Q. 52. How was the binding folded and how was the material of the centre piece in the white shirts arranged?

A. The binding was put on the centre of the bosom when the bosom was made.

X Q. 53. Before the centre pleat was put on?

A. I guess the binding was put on before the centre pleat was put on.

X Q. 54. How was that done?

A. It was done through our hands who worked for us.

X Q. 55. How was the binding arranged, folded, and stitched?

1037 A. They were cut out from different goods for the purpose to bind.

X Q. 56. Is that all the description you can give of it?

A. I believe so.

X Q. 57. Can't you give me some sort of a diagram or sketch showing how the parts were arranged in the completed shirt?

A. I cannot, as our hands does that work.

X Q. 58. As I understand you, the flannel shirts made by you, as stated in your direct testimony, were made exactly like "Defendants' Exhibit Isaac Wallach Shirt No. 1," etc. Is that so?

A. Yes, sir; some of them—that is, the double-breasted ones were made exactly like these.

X Q. 59. How were the single-breasted ones made?

A. Only the centres of the shirt were bounded; no other part. The centre is the narrow strip in the front in a single-breasted shirt.

X Q. 60. What was your part of the business between 1857 and 1874?

A. I was selling the goods mostly. I did not attend the manufacture.

X Q. 61. What was the object of the binding on the centre pleat of the white shirts? Was it for the purpose of ornamentation?

A. Yes, sir.

X Q. 62. What other purpose did it have, if you know?

A. It sells the goods.

X Q. 63. Do you know of any other object?

A. Yes; it's the style.

X Q. 64. Any other object?

A. Not as I know.

X Q. 65. I suppose this centre pleat was composed of material which was itself folded on the edges, was it not? I refer to the white shirts.

A. Yes.

X Q. 66. How many layers of material were used in making this centre pleat—one?

1038 A. No; it was generally two and three ply.

X Q. 67. And this material was folded like a box pleat, as I understand you, before the binding was put on?

A. Yes, sir.

X Q. 68. Who got up this style of white shirt, if you know?

A. Several bosom-makers.

X Q. 69. Were there any cords used in the binding?

A. Not in the binding. They were used without a binding.

X Q. 70. Who made these white shirts for you and your concern during the period as to which you have testified?

A. They were made by different hands in New Jersey, New York State—Brooklyn and in this city.

X Q. 71. Give their names.

A. I can't do that.

X Q. 72. Have you no means of ascertaining their names?

A. I might remember some of them. It's a long time.

X Q. 73. Will you endeavor to do so and give us the names?

A. Yes; I remember one name or two yet.

X Q. 74. Give them.

A. Mr. Van Beuren. I don't know whether he's alive now.

X Q. 75. Any other?

A. I can't think of any other.

X Q. 76. Can you give his address?

A. For many years he has not worked for us. He has not worked for us since 1875. I cannot give his address.

X Q. 77. How long did you continue to manufacture this kind of white shirts?

A. From seven to ten years—till they wouldn't sell.

1039 X Q. 78. When did you begin and about when did you stop selling them?

A. I couldn't tell you that exactly.

X Q. 79. Are you sure you made any in 1865?

A. I think we made them before that.

X Q. 80. How long before?

A. We made some in 1859.

X Q. 81. Have you got any books which show when you made them or how they were made?

A. No, sir.

X Q. 82. Where are the books of the concern or concerns covering the period when you were making these shirts or for that period?

A. I couldn't tell you.

X Q. 83. Have you consulted any books to assist you to fix the dates?

A. No, sir.

X Q. 84. Have you consulted any memorandums or have you any memorandums to help fix the date?

A. No, sir.

LEWIS FRANK.

Sworn to before me this 24th day of March, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

NEW YORK, *March 26th*, 1886.

Parties met pursuant to adjournment.

Parties present as before.

ISAAC FRANK, being duly recalled, says:

The name of the bosom-maker is Van Beuren. I have seen him, and he promised me to appear this morning. He worked for me in 1865. I found that out yesterday. I was not sure that it was
1040 him until he told me so, as it is over 20 years now. He made bosoms for me at that time as I described. They were white bosoms with fancy binding percales or other materials of blue or red color on the centre pleat of a white shirt bosom. Further, I have looked to see whether we had in our possession any of the shirts of this make, but have found none.

ISAAC FRANK.

Sworn to before me this 26th day of March, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

RICHARD A. VAN BEUREN, a witness called on behalf of the defendants, being duly sworn, deposes and says:

Counsel for complainants objects that this witness was not named in the answer, and cannot therefore testify in this case.

Q. 1. What is your name, age, residence, and occupation?

A. My name is Richard A. Van Beuren; my age is 57 years; my residence is 225 Deane street, Brooklyn; my occupation is that of a manufacturer of shirt fronts.

Q. 2. How long have you been engaged in the manufacture of shirt fronts?

A. Twenty-two to twenty-five years—nearer twenty-five, I think.

Q. 3. Did you at any time manufacture shirt fronts or bosoms for Isaac Frank, of this city; and, if so, when?

A. I did; I made shirts for Mr. Isaac Frank about 13 or 14 years ago, when he first went into business. I may not be correct about the year he went into business. I cannot now fasten down
1041 the year, but I know that I made these shirt-fronts when he first went into business.

Q. 4. Please describe the shirt front or bosom that you manufactured for him when, as you say, he first went into business, having particular reference to the centre pleat, if there were any, on said fronts.

A. There were a number of different styles I made for him. Do you want me to describe any particular style? There were centre pleats that we made plain; that was a plain piece of material in the centre of the bosom, extending from the top of the bosom to the tab. This was sometimes part of the bosom and sometimes was attached to the bosom.

Q. 5. What other kinds of bosoms with centre pleats did you make for Mr. Isaac Frank at the time referred to?

A. I did make some bound centre-pleat bosoms. One style was like model marked "Defendants' Exhibit Van Beuren Model No. 1, L. T., N. P., March 26, 1886." and another style like "Defendants' Exhibit Van Beuren Model No. 2, L. T., N. P., March 26th, 1886."

Q. 6. Over what part of the pleat did the binding extend?

A. The entire edges of the centre pleat were covered with the binding.

Q. 7. How many layers of material composed the centre pleat?

A. Two layers—two distinct pieces.

Q. 8. Was the centre pleat separate and distinct from the bosom itself?

A. Sometimes, but not always.

Q. 9. How were these centre pleats attached to the bosom or shirt front?

A. If that centre pleat was separate and apart from the bosom, there was sometimes four rows of stitching on model No. 1, and on model No. 2 we sometimes would put six rows, but most always four.

1042 Q. 10. How many rows of stitching were visible on the binding after the pleat was attached to the shirt front?

A. One row on No. 1, two rows on No. 2; that was on each side of the binding.

Q. 11. Did you manufacture these bound pleated bosoms for any other persons?

A. Yes, sir; I am pretty sure I made them for Mr. Rothschild and Mr. Necarsulmer, who was alone at that time, and I think, if my memory serves me right, for B. H. Frank & Bro., who used to be in Broadway, near the old hospital.

Q. 12. When was it you manufactured for these other persons?

A. I take this back about 13 or 14 years ago; part of it was done in Newark and part of it after I came back here; a very small part after I came back here. I can add another house now—Goodheim & Linderman.

Q. 13. In what quantities did you manufacture at the time referred to these pleated bosoms?

A. Of model No. 1 I made about 150 dozen a week; of model No. 2 I have made more than 500 dozen a week.

(Direct examination closed.)

Cross-examination by Mr. SKILTON:

X Q. 14. You manufactured only the bosoms, as I understand?
A. Yes, sir; only the fronts.
X Q. 15. The pleat represented in these two paper models was what is called in the shirt trade a box pleat, was it not?
A. Yes; box pleat or centre pleat.
X Q. 16. And the binding in one case was applied to the edge in No. 1 and on the front near the edge in No. 2, was it not?
A. Yes, sir.
1043 X Q. 17. The folded strip represented in model No. 2 is not, in fact, a binding, but only a strip secured to the front of the pleat, is it?
A. Yes, sir.
X Q. 18. And its purpose was merely for ornamentation, I suppose?
A. Yes.
X Q. 19. And the same is true as to the strip secured to the edge in model No. 1?
A. Yes, sir.
X Q. 20. In model No. 1 what did the line of stitching represented in ink on the edge of the strip pass through?
A. It went right through the binding on both sides, and the material of the centre pleat between, and nothing further. It did not pass through the bosom underneath the centre pleat. In No. 2 both lines of stitching passed through the strips, the centre pleat and the material of the bosom underneath.
X Q. 21. All these bosoms of which you have testified, as I understand you, were what are called pleated bosoms?
A. No, sir; some were in what we called shield bosoms; some plain, with just pleated fronts; some with puffed fronts; some with full-pleated fronts. It was done just for the purpose of ornamentation.
X Q. 22. These strips, I suppose, were generally or principally composed of colored or printed goods, were they not?
A. Generally, not altogether; sometimes white; sometimes buff and white were contrasted. The same thing was done on puffed fronts—that is, like model No. 2, but not altogether. The centre pleat in the puffed front was the same in all respects as in the other.
X Q. 23. What were the lines of stitching shown in these two models within the edges of the strips for? What was their purpose?
1044 A. Generally for ornamentation; sometimes for fastening down the pleat when it was a separate piece.
X Q. 24. Which was the most frequently made—No. 1?
A. No. 2.
X Q. 25. In the case of No. 1 was the box pleat generally made by folding a part of the same material as the rest of the bosom—uncut and continuous?
A. Sometimes; most generally; most always.
X Q. 26. Will you please fold a piece of paper in such a way as

to show how the box pleat was made when the piece was continuous?

A. I have done so.

(The same is marked for identification "Van Buren Model No. 3.")

X Q. 27. As I understand you, then, the shirts as to which you have been testifying were open-front bosoms, the opening in the centre?

A. Most of them were.

X Q. 28. Those like "Van Buren model No. 3" were open fronts, with the box pleat on one side?

A. On one-half the front. I began this work in Brooklyn, continued it in Newark, and for a short time after I returned to this city. I am back from Newark fourteen years; was in Newark two years, and came there from Brooklyn; therefore I know I did the work more than sixteen years ago; how shortly after the close of the war I did it I don't know.

X Q. 29. The style of manufacture of which you have testified has gone out long ago, has it not?

1045 A. I haven't manufactured them for years. I may have made a few, but not many.

R. A. VAN BEUREN.

Sworn to before me this 26th day of March, 1886.

LEOPOLD TURK,
Notary Public, New York Co.

Defendants' Exhibits Van Beuren Models Nos. 1 and 2 offered in evidence.

VICTOR HENRY ROTHSCHILD, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Victor Henry Rothschild; I am 51 years old; my residence is 4 East 67th street, New York city; my place of business is corner of Leonard street and West Broadway; I am a manufacturer of shirts of every description, and also of underwear.

Q. 2. When did you go into business in this city?

A. In the year 1862.

Q. 3. In 1863 where were you in the habit of getting shaved?

A. Mostly at what was called the Lafarge Hotel, on Broadway; it is now the Grand Central, I think.

Q. 4. Was there a gents' furnishing store in that hotel?

A. There was.

Q. 5. Do you recollect buying a particular lot of goods there? If so, please describe the same.

A. I bought some shirts—not a lot. I think there were somewheres in the neighborhood of a dozen. I bought them because they were odd—different from what I had been in the habit
1046 of making. I have often recollected the circumstance, and have frequently stated that it was the most desirable little

parcel for my business that I had ever bought, as they served me so well for my business.

Q. 6. Was there a Pongee shirt in this lot? If so, please describe the same in detail.

A. Yes; that shirt was made open back and open to the front on the right side. The bosom was a shield style, with a round tab underneath the bosom. It was not less than two ply; may have been three. It was bound with a binding cut on the bias. That's about all the description I know of.

Q. 7. How was the bosom attached?

A. To the right side there was a fly, which was buttoned to buttons setting on the lower part—on the body of the shirt—so that they could not be seen. The left side was stitched onto the shirt body.

Q. 8. If you have ever made laundried open-back shirts please describe when, as near as you can recollect.

A. From that shirt, I took that for a basis for printed cotton or calico shirts. I took it for a basis for gray linen shirts and for white shirts about a year or year and a half after that; I can't just tell.

Q. 9. Please describe the open-back white calico shirts referred to in your last answer as made in 1864 or 1865.

A. It may have been as late as 1865. I made the bosoms in plain 2 and 3 ply, both bound and plain.

Q. 10. What shape?

A. I made them square and shield-shaped, ruffled, puffed, and plain.

Q. 11. Referring to the binding upon the bosom?

A. I have made them with straight binding and braid, and I had a great many made bound on the bias by a man named Pipo & Stockman. They had peculiar machinery to turn that out; very suitable for bias binding, especially Pipo.

Q. 12. These parties made the bosoms, you furnishing the material?

1047 A. Yes.

Q. 13. Was the binding upon the bosom sewed on before or after it was attached to the body of the shirt?

A. The bosom was bound, and then the bosom was sewed to the body of the shirt by separate rows of stitches, sometimes on the inner edge of the binding and sometimes on the outer edge, and sometimes both.

Q. 14. So far as you know, who was the first to adopt the style of open-back shirts in the New York market?

A. That's hard to tell. I always believed that I was the first, but everybody made them. It was about 1867, 1868, and 1869 that they came into general use, and then everybody made them.

Q. 15. Did you make other kinds of shirts having bound bosoms?

A. We made them on undershirts and negligee shirts. We made them with straight centre, curved centre, and shield, bound.

Q. 16. Please look at "Defendants' Exhibit Isaac Wallach Shirt No. 1" and tell us when, if ever, you made shirts that resembled that.

A. Ever since I am in business. That's nothing new.

Q. 17. How long did you continue to give your personal attention to the manufacturing branch of the business?

A. From 1863 to 1867 and 1868, more or less.

Q. 18. To whom did you give charge of that branch of your business after that date?

A. To a man named King, and then in 1870 to 1871 I gave the manufacturing department in charge to a man named Albert Borchardt. He was in charge of that till 1876 or 1877.

Q. 19. You have testified to making white and other styles of shirts. Please state in what quantities you made the shirts testified to by you and what you did with them.

1048 A. I made them for the wholesale trade in quantities and sold them.

Q. 20. Do you employ more than a thousand men?

A. We employ more than a thousand people, men and women, in our manufacture.

Q. 21. Do you recollect whether you have ever been notified to cease manufacturing an alleged infringement of the Cluett patent shirt?

A. I haven't any recollection of that.

Cross-examination by Mr. SKILTON:

X Q. 22. Who kept the gents' furnishing store in the "Lafarge Hotel" mentioned in the 3d answer and the 4th question and answer?

A. That I couldn't tell you. I don't know the names of the parties, only I used to buy all my furnishing goods there, and they always used to keep something new and novel. I thought more so than any other place in the city.

X Q. 23. Was there more than one gents' funishing-goods store in the "Lafarge Hotel"?

A. Not in that hotel, but there were several in the immediate neighborhood.

X Q. 24. What do you mean by a pongee shirt?

A. It is a material made out of raw silk and has a buff shade.

X Q. 25. It was a silk undershirt, then, was it?

A. No; overshirt; negligee.

X Q. 26. It was not a shirt made to be laundered and starched, I suppose?

A. The material can be laundered, but was not when I bought it.

X Q. 27. It was not what we call a laundered shirt, was it?

A. No, sir.

X Q. 28. Nor was it a shirt made to be laundered like a linen or cotton shirt?

1049 A. It was a material that could be laundered. It could be washed, but might fade or bleach a little after washing often.

X Q. 29. Was the material knit material or woven goods?

A. Woven.

X Q. 30. Was one side of the shirt open through or under the bosom, as in Defendants' Exhibit Isaac Wallach Shirt No. 1?

A. Somewhat, but it had a fly on one side in place of where the buttons are, and the buttons did not show at all on top.

X Q. 31. It had the same opening, then, only it had a fly on the edge of the bosom where it was free, so as to cover the buttons, I suppose. Is that so?

A. The button-holes were in the fly, which was underneath, and the bosom covered the buttons. Otherwise the opening was about the same as in this shirt. It wasn't exactly the same.

X Q. 32. How did it differ?

A. It was so near to that I can't describe it any more, but the principle is described there. The principle is about the same.

X Q. 33. The printed cotton or calico shirts, the gray linen shirts, and the white shirts made subsequent to the purchase of the "pongee shirt" referred to in your answer to Q. 8 were made like this pongee shirt, as I understand you; is that correct?

A. No, sir; they were made open back where I used the principle of the bosom, and the bosom was then sewed onto the front and only left open on the back.

X Q. 34. How wide was what you call the bosom in the "pongee shirt"?

A. It was from 1 to 2 inches narrower than the bosom in "Defendants' Exhibit Isaac Wallach Shirt No. 1." It was not
1050 shorter than this and may have been a little longer, measuring from the centre.

X Q. 35. To whom did you sell these printed cotton calico, gray linen, and white shirts with open back and closed front.

A. That part of the business I did not attend to at that time, and the books of that period I haven't got any more.

X Q. 36. Can't you recall the names of some parties to whom you sold these shirts?

A. No; I cannot, but I can recall the names of some firms that dealt with us at that time.

X Q. 37. Please mention those names.

A. Mustadter Bros., San Francisco, California, was one of our first customers; Strefel, Schwertzer & Co., also of San Francisco; a firm then in existence called Henry Cohen & Co.; Dodd, Brown & Co., St. Louis; Ross, Campbell & Co., of St. Paul; Farwell and Marshall, Field & Co., in Chicago. Those are the present firms. It was their predecessors I sold to; Wail, Dreyful & Co. and Limin, Hatch & Widdin and Hawley, Folsom & Martin, of Boston; Allen, Sheldon & Co., Detroit.

X Q. 38. Who made these open-back, closed-front shirts for you at that time?

A. We had the bosoms made by Pippo & Stockmon, and sent the shirts to be made by hands outside the factory.

X Q. 39. Where are Pippo & Stockman now, if you know?

A. I don't know. I haven't had anything to do with Pippo in a long time.

X Q. 40. Will you give the name of one or more persons now living in or near New York and accessible at this time who knew of the manufacture of these bound-bosom shirts, whether open-backed

or open-fronted, and also the names of any of your then employees who were familiar with the construction and method of manufacture of these particular shirts?

1051 A. The man that was my superintendent then is not alive now. My brother, who was my associate then, is not in the country. I have no one in my business to-day that knows what I have done prior to 1870. Albert Borchardt is able to explain what we have manufactured from 1870 up to this date. Captain Hawley and a man named Stobo laundered all my goods then, prior to 1870. They laundered for me from 1863 to 1870. Captain Harvey's laundry was in Belleville. I don't know where Stobo is.

X Q. 41. What was your object in putting the binding on the bosom of these shirts?

A. I thought after I came in possession of that pongee shirt that it looked very nice and would be useful for many purposes, and I extended it as far as I could wherever it would look well, and even went so far as to apply it to undershirts, bosoms, and fronts.

X Q. 42. Your object, then, was to improve the appearance of the shirt?

A. Certainly.

X Q. 43. What other object had you in view?

A. No other object that I know of except to make it look uniform.

X Q. 44. How long did you continue the manufacture of the goods described in your answer to Q. 8.

A. I couldn't tell you that. Mr. Borchardt knows more about that than I do.

X Q. 45. When did you first have the pleasure, and where, of meeting Mr. Skilton, the counsel for the Cluetts in this case?

A. About 1874, 1875, or 1876.

X Q. 46. Do you recall the occasion of our first meeting?

A. No; I don't. I remember we met on some patent ne-
1052 gotiation. You got out a patent for me.

VICTOR HENRY ROTHSCHILD.

Sworn to before me this 26th day of March, 1886.

LEOPOLD TURK,
[SEAL.] *Notary Public, N. Y. C.*

Examination of other witnesses adjourned until March 29th, 1886, 11 a. m.

NEW YORK, *March 30th*, 1886.

Parties met pursuant to adjournment.

Present: David Tim and Louis C. Raegener, of counsel for defendants.

With consent of complainants' counsel, examination proceeded with, his right to cross-examine being reserved.

SAMUEL STERN, a witness, being called on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Samuel Stern. My age is 46. My residence is 348 E. 72d street, N. Y. city. I am a shirt manufacturer, and have been since 1864, on my own account.

Q. 2. What kind of shirts did you manufacture in 1864 and 1865?

A. White shirts and woolen shirts.

Q. 3. Please describe the woolen shirts.

A. We made gray flannel shirts with a box pleat bound for several years from 1865—more than 50 dozen a year—which we sold to the retail trade.

1053 Q. 4. Please describe the box pleat referred to in your last answer in detail.

A. The binding went all around it.

Q. 5. Please look at "Defendants' Ex. Z, Borchardt's Shirt, January 7th, 1886," and tell us whether it resembled or differed from, and in what respects, the shirt made by you in 1865 and referred to in your previous testimony.

A. I don't think I had the collar and pockets bound as in this exhibit, but otherwise it is about the same thing.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 6. Where is your place of business at this time?

A. 515 Broadway, N. Y. city.

X Q. 7. Where was it in 1864?

A. I think at No. 8 Warren street.

X Q. 8. Where was it from that time down to the present?

A. We moved from there to 40 Walker street. We were in Walker street, in three places, for eleven years in all. We were in Warren street, anyhow, two years. We were at 471 Broadway, I think it was, from 1879 to 1885. We are at 515 Broadway now, from February 1st, 1885.

X Q. 9. Why do you call the centre strip in the Borchardt shirt a box pleat?

A. We always called it a box pleat at my place.

X Q. 10. The binding on the Borchardt shirt is intact and undisturbed all the way round, and consequently you have not examined the layers of material so as to know how they are disposed under or within the binding?

A. No, sir.

X Q. 11. How many stitches are there through the binding in the Borchardt shirt, as to which you testified?

1054 A. I don't know.

X Q. 12. And you don't know how the material is disposed in the box pleat, as you call it?

A. No.

X Q. 13. Was the binding of the same kind in every respect?

A. It was a cotton binding we put on.

X Q. 14. Was it a regular-made binding?

A. Yes; it was a regular-made binding which we bought.

X Q. 15. Was it folded in the same way as you put it on the shirt, as in this exhibit, the Borchardt shirt?

A. Yes; it had one fold in the centre, as——

X Q. 16. And no more?

A. Yes; like the Borchardt shirt. The binding referred to was only put on woolen shirts, as testified.

SAMUEL STERN.

Sworn to before me this 30th day of March, 1886.

LEOPOLD TURK,

[SEAL.] *Notary Public, N. Y. Co.*

JOSEPH A. CARBERRY, a witness called on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Joseph A. Carberry; my age is 38 years; my residence is 139 West 129th street, N. Y. city; my occupation is that of a salesman with H. Wallach's Sons.

Q. 2. Since when have you been engaged with house manufacturing shirts?

A. Since 1869, and continuously ever since.

1055 Q. 3. If you manufactured white shirts in 1869 please describe them in detail.

A. All kinds of white shirts—men's, boys', and youths'—open front and open back.

Q. 4. Please describe the bosom of the white shirts.

A. We made them in pleated bosoms, ruffled bosoms, and shield bosoms.

Q. 5. If the bosom of any of these shirts had a binding please describe the same.

A. All the ruffled-bosom shirts had binding through the centre of the ruffling and on the side and around the bottom of bosom.

Q. 6. Please look at "Defendants' Exhibit G, Borchardt Shirt, January 7th, 1886," and tell me whether it resembles or differs from the shirts manufactured in your establishment in 1869, and point out any resemblance or difference.

A. As to the binding in centre of ruffling, sides, or end of the bosoms, there is no difference.

Q. 7. Do you know at what stage of the manufacture the binding was put upon this shirt?

A. During the manufacture of the bosom.

Q. 8. Before or after it was attached to the shirt body.

A. Before.

Q. 9. In what quantities did your house manufacture this style of ruffled-bosom shirt, and what had you to do with same?

A. In hundred-dozen lots, different grade of them, and I sold them to the trade.

Q. 10. Please describe the other varieties of shirts manufactured by your establishment which had a binding upon the bosom of the shirt.

A. Fancy percale and calico shirts.

Q. 11. What style of bosom had these last-named shirts?
A. Pleated bosoms.
Q. 12. What shape?
1056 A. Pleated—1, 2, and 3 pleats in each side of a box pleat.
Q. 13. Were they open back or open front?
A. Generally open front; both ways.
Q. 14. Of how many plies was the bosom constituted?
A. Two or three plies.
Q. 15. And when was the binding put upon the same?
A. During the manufacture of the bosom.
Q. 16. Before or after attaching to the shirt body?
A. Before.
Q. 17. Please describe the shield-shaped bosom shirts referred to by you.
A. They were open front.
Q. 18. How about any binding?
A. No binding on those.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 19. When did you commence the manufacture or sale of the ruffled-bosom shirts referred to in your answers to Q. 5, 6, 7, 8, and 9?
A. In 1869.
X Q. 20. Who invented or contrived that shirt, the ruffled-bosom shirt, if you know?
A. We did ourselves. I had never seen any made until we made and sold them in our own house. I think we were the first in the United States to make ruffled-bosom shirts.
X Q. 21. You refer in your last answer to ruffled-bosom shirts made like "Defendants' Exhibit Y, Borchardt Shirt, January 7th, 1886," and with a similar binding?
A. Yes, sir.
X Q. 22. What individual in your concern originated this particular style of shirts? Please give his name and address.
1057 A. Our manufacturer. I can't give his address. His name is A. Womrser. He is now in Europe.
X Q. 23. Can you give the name or names of any other persons who were connected with the manufacture of this shirt and who knew about its origin and manufacture?
A. I cannot. I know nobody outside of our business.
X Q. 24. What others connected with the business knew the facts?
A. Our cutter and foreman in our cutting-room, &c. I couldn't give their names.
X Q. 25. When did Mr. Wormser get this shirt up?
A. In 1869.
X Q. 26. At whose suggestion?
A. At his own.

X Q. 27. Did you have anything to do with the manufacture of these shirts at that time?

A. I simply sold the shirts.

X Q. 28. Will you please describe exactly how the material of the bosom, "binding," &c., of the shirt and bosom, were disposed in relation to each other, and also how and where the stitching was done?

A. The bosom was made with ruffling on both sides of the box pleat. The binding ran from the collar band at top of bosom around the outside edge of the bosom and down through the centre of the ruffling, identical with the Exhibit Y.

X Q. 29. Is that all the description you are able to give of this shirt and how it was made?

A. That is all.

X Q. 30. The bosom was square, I suppose, and open front?

A. Square, like Exhibit Y, and open front in all cases.

X Q. 31. You refer in your tenth answer to percale and
1058 calico shirts. Please describe these shirts and bosoms, stating exactly how the layers of the bosom and the binding were arranged and disposed.

A. They were made with 1 and 2 pleats on each side of a box pleat, the box pleat bound on both sides.

X Q. 32. It was the folded edge of the box pleat that was bound?

A. Yes, sir.

X Q. 33. How was the binding put on this folded edge?

A. Stitched on.

X Q. 34. How was it folded and of what material was it composed?

A. Of percale and calico the box pleat was composed. The binding was sometimes white muslin, and then sometimes a different color of percale or calico.

X Q. 35. Can you make a paper model showing how the box pleat and binding were folded and related to each other?

A. No, sir.

X Q. 36. Don't you recall how that was done exactly?

A. No, sir.

X Q. 37. Do you recall how the stitching was done?

A. Sometimes one way, sometimes another.

X Q. 38. Have you in your possession or do you know of there being in existence any of these puffed-bosom shirts, like Exhibit Y, or of the bound pleat percale shirts made by your concern prior to 1875 that are now in existence—that is, I mean the identical shirts?

A. No.

X Q. 39. How long did your concern continue to manufacture these puffed-bosom and percale shirts?

A. Down to about 1874.

X Q. 40. Why did they stop manufacturing?

1059 A. Anticipating going out of business.

X Q. 41. What was the name of the concern that manu-

factured these puffed and percale shirts prior to 1874, as you have testified to?

A. A. Wormser.

X Q. 42. Please give the address or addresses between 1869 and 1874.

A. 215 Church street up to 1875. We quit there in July, 1875. The concern went out of business then.

JOSEPH A. CARBERRY.

Sworn to before me this 30th day of March, 1886.

LEOPOLD TURK,
[SEAL.] *Notary Public, N. Y. Co.*

Examination of other witnesses adjourned to April 3rd, 1886, at 10.30 a. m.

NEW YORK, *April 3rd*, 1886.

Parties met pursuant to adjournment.

Present: James A. Skilton, att'y of counsel for complainants; Louis C. Raegener, of counsel for defendants.

PETER MICHEL, a witness called on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Peter Michel. I am 41 years old. My residence is 331 N. 5th St., Philadelphia, Pa. I am a shirt-cutter for Hagerdorn and Newman.

Q. 2. During what periods and where were you a manufacturer of calico, cotton, and linen shirt bosoms?

A. In Philadelphia, from 1867 to the fall of 1872, for Rosenbach & Co., of Philadelphia.

Q. 3. Please describe the shirt bosoms manufactured by you for Rosenbach & Co.

A. I got the material from the firm; had a number of
1060 women working under me. I made bosoms where I had bindings—shield bosoms. The binding I sewed on the front and then turned it over.

Q. 4. Of how many layers of material was the shirt bosom made?

A. Two.

Q. 5. For what kind of shirt bodies—open back or open front—were these bosoms made?

A. Open back.

Q. 6. How much and what part of the bosom did the binding cover?

A. The edge of the bosom all the way round both sides.

Q. 7. With how many stitches did you fasten the binding to the bosom?

A. With one stitch, and it took another stitch to fasten the bosom to the shirt. The shirt manufacturer put on the second stitch.

Q. 8. Did you ever see the completed shirts with the bosoms made by you?

A. Yes, sir.

Q. 9. Please look at Defendants' Exhibit A and state whether it was like or different from the completed shirts at Rosenbach & Co., having the bosom made by you?

A. It was just the same.

Q. 10. What is the earliest period that you made these shirt bosoms with a binding for Rosenbach & Co.?

A. I can remember that it was in 1869.

Q. 11. In what quantities did you manufacture these shirt bosoms?

A. In big lots.

Q. 12. Defendants' counsel has paid you $10 for coming here from Philadelphia to-day, has he not?

A. Yes.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 13. How long have you been in the employ of Hagerdorn & Newman?

A. A year.

1061 X Q. 14. In whose employ were you before that?

A. With Cohen & Cohen.

X Q. 15. How long?

A. I couldn't say exactly; I guess about six months.

X Q. 16. Before that in whose employ were you?

A. With Sinzheimer & Deutsch.

X Q. 17. How long?

A. Seven years.

X Q. 18. Beginning when?

A. About a year after the Centennial.

X Q. 19. Before the Centennial in whose employ were you?

A. Before the Centennial I was out West—in St. Louis.

X Q. 20. How long?

A. Went to the West in 1873.

X Q. 21. When did Sinzheimer & Deutsch go out of business?

A. About two years ago; I wouldn't say exactly the date.

X Q. 22. Did you see any bosoms made by Sinzheimer & Deutsch in which a binding was used on the bosom during the seven years you were in the employ of that concern?

A. Yes, sir.

X Q. 23. Did they make such bosoms regularly?

A. Yes, sir.

X Q. 24. How was the binding put on those bosoms made by Sinzheimer & Deutsch?

A. It was sewed on with one stitch, like "Defendants' Exhibit A."

X Q. 25. Did you see any of these bosoms after they were secured to the shirt? And, if yea, state how the bosom was secured to the shirt.

A. Yes, sir; the binding was cut cross-ways—bias they call it. I made these myself while in their employ, and then the binding was

sewed with one stitch on the bosom. Afterward it was stitched to the shirt exactly as in "Defendants' Exhibit A."

1062 X Q. 26. As I understand you, in these bosoms made by Sinzheimer & Deutsch the binding was secured to the bosom in the same manner as in "Defendants' Exhibit A" before securing the same to the shirt. Is that true?

A. Yes, sir.

X Q. 27. How many of these did you make or see made while you were — Sinzheimer & Deutsch?

A. In big quantities.

X Q. 28. For whom were they made by Sinzheimer & Deutsch?

A. I don't know.

X Q. 29. Did Sinzheimer & Deutsch sew the bosoms on the shirts or only make the bosoms?

A. They sewed the bosom on the shirt and made the whole shirt in and out.

X Q. 30. Did they always do so in every case or did they make fronts for other establishments?

A. The first year I came to them they made bosoms—fronts—for other concerns; after that they made shirts on their hook to sell with the same kind of bosom and binding.

X Q. 31. For whom did Sinzheimer & Deutsch make bosom fronts during that year?

A. For Walter Steppbacher. We made some for other concerns—smaller concerns—I can't remember the names.

X Q. 32. Did they manufacture these fronts for Rosenbach & Co.? I mean the bound-bosom fronts.

A. Yes—no; they were broke up at that time. I know Mr. Sinzheimer made some for Rosenbach & Co. before they broke up.

X Q. 33. Steppbacher was of the firm of Rosenbach & Co., was he not?

A. Yes; but it was not the same Steppbacher as to whom I have testified. The one I have testified to was his son.

X Q. 34. Steppbacher was the successor of Rosenbach & Co. in the shirt business in Philadelphia, was he not?

1063 A. Yes; I suppose so.

X Q. 35. What has become of the senior Steppbacher?

A. He has a shirt-house yet.

X Q. 36. Where?

A. In Market street, Philadelphia; I don't know the number.

X Q. 37. Did Sinzheimer manufacture these bound bosoms for him?

A. I couldn't say exactly these bound bosoms, but he manufactured some bosoms.

X Q. 38. After Rosenbach & Co. failed?

A. Yes, sir.

X Q. 39. And while you were with Sinzheimer & Deutsch?

A. Yes, sir.

X Q. 40. Was the binding in these bosoms and in the shirts made by Sinzheimer & Deutsch arranged and formed in the same way as in "Defendants' Exhibit A"?

A. It was just the same like that "Defendants' Exhibit A."

X Q. 41. My last question relates to the bosoms and shirts referred to in X Q. and A. Nos. 22 to 26. Does your last answer refer to the same?

A. Yes, sir.

X Q. 42. Rosenbach & Co. was the largest and the leading shirt manufacturing and selling house in Philadelphia during its existence, was it not?

A. Yes, sir.

X Q. 43. Who knew of the manufacture, in 1869, of the shirt bosoms referred to in your answers to Q. 3, 4, 5, 6, 7, 8, and 9, besides yourself? Give the name of living persons.

A. Mary McCann. I don't know where she lives now. She was working then for me. My wife was there, but whether she remembers I couldn't say. She assisted me.

X Q. 44. Is that all the names you can give?

1064 A. I can't give any more names. I don't know the names any more.

X Q. 45. These bosoms you made and afterwards saw made up with the shirt were laid on the shirt front, were they not, and there stitched by a line of stitching through the binding and the shirt front?

A. Yes, sir.

X Q. 46. Have you any books or memorandums which show when you made the bosoms for Rosenbach & Co.?

A. I've got no books any more.

X Q. 47. Have you consulted any books or memorandums to help you fix the date of the manufacture of these bound-bosom fronts?

A. No; but I remember it yet.

X Q. 48. Have you talked with anybody about it?

A. No.

X Q. 49. Haven't you talked with Mr. Tim about it?

A. No, sir.

X Q. 50. Haven't you talked with Mr. Sinzheimer about it?

A. No, sir.

X Q. 51. When did you first learn of the suit, and how?

A. Last year, in the fall, Mr. Sinzheimer asked me if I ever made any bound bosoms and I said, Yes. He said, That's all I want to know. He didn't ask me about the time.

X Q. 52. Who first asked you about the time when these bosoms were made, and where?

A. When I came here defendants' counsel asked me.

X Q. 53. Didn't you know of the taking of testimony in this case in Philadelphia in December?

A. Yes; I knew a little about it, but I didn't know what the whole amount of it was.

X Q. 54. Who told you about it?

A. Mr. Sinzheimer told me one time I should call in the office; somebody wanted to see me about that.

1065 X Q. 55. Didn't you arrange in December to come on and give your testimony in New York?

A. Yes, sir.

X Q. 56. Didn't you know what it was about then?

A. I knew some of it; not all. When Mr. Tim came in the office he asked me how along ago I made some bosoms, and I said I made some bosoms in 1867. Then he asked me if I ever made some bound bosoms. I said, Yes. That's all he asked.

X Q. 57. Didn't he (Mr. Tim) ask when you made the bound bosoms?

A. Yes; and I told him 1869, 1870, and 1871 to 1873.

X Q. 58. What other bosoms did you manufacture between 1867 and 1873 besides the bound bosom, if any?

A. Different kinds, but without binding.

X Q. 59. Describe the bosom.

A. I made some ruffled bosoms, embroidered bosoms, pleated bosoms, corded bosoms, plain bosoms. That's about all.

X Q. 60. In what quantities?

A. In large quantities.

X Q. 61. Which did you make the largest quantity of—the bound bosoms or the unbound?

A. The unbound.

X Q. 62. Was the bound bosom part a small part of the work that you did?

A. Yes, sir.

X Q. 63. What enables you to fix the date as far back as 1869?

A. I lived that time in another house, where I know I made the bound bosoms. Then my son was born in that house January 2d, 1870, and I know I made some bound bosoms before that time.

X Q. 64. How do you know that?

A. I gave business up in 1872, and I commenced a store in 1872. In 1873 I went to St. Louis.

X Q. 65. Is that all?

1066 A. Yes, sir.

X Q. 66. Did you get up this plan of binding the bosom of the shirt?

A. No, sir.

X Q. 67. Where did you get it?

A. When I took a lot of work out I would get always a sample with it. I got the plan off the sample.

X Q. 68. Who furnished the sample?

A. Rosenbach & Co., where I worked for.

X Q. 69. Where did they get it?

A. I couldn't say, for I know somebody else made some too.

The last answer after the words "I couldn't say" objected to as irrelevant and incompetent.

X Q. 70. You are unable to state, then, who originated that line of shirt bosoms, are you?

A. Yes; I couldn't say.

X Q. 71. Did the binding go all around the bosom in those that you made in 1869—the binding in one piece?

A. Yes.

X Q. 72. And was the binding bias cut in those bosoms as made by you for Rosenbach & Co.?

A. Yes, sir.

X Q. 73. Always?

A. Yes, sir.

X Q. 74. Were the bosoms pleated bosoms that were bound?

A. No, sir; only what we call a plain centre box pleat.

X Q. 75. Were the bosoms nearly square and rounded at the two lower corners or much narrower at the end?

A. They were much narrower on the bottom—rounder.

X Q. 76. Was the binding always bias cut?

1067 A. Yes, sir.

X Q. 77. How were the layers of the bosom laid at the edges?

A. The edges of the bosom were folded in with the binding.

X Q. 78. The edges of both layers were both folded?

A. Yes, sir.

X Q. 79. How much?

A. About a quarter of an inch.

X Q. 80. Were the bosoms stitched on the edge before the binding was put on the bosom, or were the edges of the bosom left free and unstitched?

A. Unstitched.

X Q. 81. Then the bosoms only had one line of stitching which went through the bias strip and then through the two layers before the whole of it was secured to the shirt?

A. Yes, sir.

X Q. 82. That is to say, after the bosom was secured on the shirt two lines of stitching did all the work of securing the binding, the two layers of the bosom, and fastening the whole to the shirt front?

A. Yes, sir.

X Q. 83. And the last line of stitching went entirely through and showed on the back side of the shirt front?

A. Yes, sir.

X Q. 84. Was that portion of the binding that showed on the front of the bosom, after the bosom was secured to the shirt, in the case of the bosoms made by you, of the same width as appears in "Defendants' Exhibit A"?

A. Yes, sir.

X Q. 85. Have you any copies of the bills you made to Rosenbach & Co. for the manufacture of these bosoms?

A. No, sir.

1068 X Q. 86. Can you now think of any other names of persons who knew of the manufacture of bound bosoms prior to 1874?

A. No, sir.

PETER MICHEL.

Sworn to before me this 3d day of April, 1886.

[SEAL.]

LEOPOLD TURK,
Notary Public, N. Y. Co.

NEW YORK, *April 3d*, 1886.

Parties met pursuant to adjournment.

Present: James A. Skilton, of counsel for complainants; Louis C. Raegener, of counsel for defendants.

MAURICE PRICE, a witness called on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Maurice Price; 49 years of age; residing at 132 E. 54th street, New York; by occupation a shirt manufacturer; my place of business is at 346 E. 23d street; also Paterson, New Jersey.

Q. 2. Since when have you been a shirt manufacturer?

A. On my account and with partners since 1859.

Q. 3. When did you commence manufacturing woolen shirts?

A. Before the war broke out, in 1859, and continuously from that time for about eight years.

Q. 4. Please describe the woolen and flannel shirts made by you during that time.

A. The bosom was made generally of two thicknesses and bound with different kind of bindings and then stitched onto the shirt, sometimes through the bindings and sometimes not. The
1069 pockets were also bound. I began making these bound shirts in 1861.

Q. 5. Please look at Defendants' Exhibit Isaac Wallach Shirt and state whether it resembles or differs from the shirts described by you.

A. The principle of the binding is the same. The shape of the bosom is different, I think, and I mostly stitched the binding on the edge down to the shirt and not away from it, as in the exhibit, although I made them this way, too. The stitching went through the binding, two layers of the bosom, and the shirt.

Q. 6. In what quantities did you make these kinds of shirts?

A. In large quantities; sometimes a hundred dozen a day, most of which were bound.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 7. Were the shirt bosoms of the woolen shirts to which you refer in your direct testimony free on one side or edge—that is, not secured to the shirt?

A. They were free on one side.

X Q. 8. And the shirt fronts were open in the centre, as in "Defendants' Exhibit Isaac Wallach Shirt No. 1," were they?

A. Yes, sir.

X Q. 9. What was the material of the binding referred to in your direct testimony?

A. Cotton and wool.

X Q. 10. It was a regular-made binding?

A. Yes, sir.

X Q. 11. Was this binding folded with one fold in the centre, as in "Isaac Wallach shirt No. 1"?

A. Yes, sir.

X Q. 12. And only so?

A. That I can't tell positively. Originally the regular binding was used. I can't say that any other binding was used before 1874.

1070 X Q. 13. What do you mean in your answer to Q. 5 by the words "I mostly stitched the binding on the edge down to the shirts and not away from it, as in this exhibit"?

A. Instead of stitching it down away from the edge I stitched it down close to the edge all the way round the bosom, even where it was free, although I also made them this way, too.

X Q. 14. Was it the purpose of this line of stitching on the free edge to give uniformity of appearance to the edge of the bosom?

A. Yes; to make it look on both sides alike.

X Q. 15. Were the bosoms of these shirts in other respects constructed as in the Exhibit "Isaac Wallach Shirt No. 1"?

A. The principle was the same, but there might have been different shapes and sizes.

X Q. 16. What I refer to in part is the layers of what you call the bosom and their relation to the shirt body.

A. Yes; they were the same.

M. PRICE.

Sworn to before me this 3d day of April, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

[SEAL.]

1071 Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter A. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein. } In Equity.

Testimony taken on part of defendants, under and pursuant *of* notice and consent (hereunto annexed), before Leopold Turk, a notary public, at New York, State of New York, at his office, No. 25 Chambers street, in said city, this sixth day of April, A. D. 1886, at 10.30 o'clock a. m.

Present: James A. Skilton, Esq., of counsel for complainants, and David Tim and Louis C. Raegener, Esqrs., of counsel for defendants.

WILLIAM E. HAGAN, a witness produced on the part of the defendants, being duly sworn, deposes and says:

Q. 1. Please state your name, age, residence, and occupation.

A. My name is William E. Hagan. I reside at Troy, New York. I am about 60 years old. My business is that of a mechanical and chemical expert in the main, and has been for the last 25 years.

1072 Q. 2. What experience have you had in expert causes, and especially relating to wearing apparel and shirts?

A. Residing at Troy, New York, a great manufacturing centre of shirts, collars, and cuffs, and having been largely engaged as expert counsel for many of the manufacturers of them thereat, I have become pretty generally acquainted with the art of making such articles, and also acquainted with the invention and patented improvements thereof. I have also been called to give evidence where inventions in shirts as patented were a matter of legal controversy. I have for the last fifteen years been in almost daily consultation with inventors of different methods of putting shirts, collars, and cuffs together, and have had occasion to examine into and educate myself as to what constituted invention in that class of articles.

Q. 3. Please look at the Cluett letters patent No. 156,880 here in suit and state whether you have read and understand the same.

A. I have read the patent named in the question and believe that I fully understand the same.

Q. 4. Please look at Defendants' Exhibit Salmon Patent, December 23d, 1885, L. T., N. P., and Marr Patent, December 23d, 1885, L. T., N. P., and state in what respect they or any of them resemble or differ from the device shown and described in the Cluett patent in suit, and give your reason for any opinion that you may express.

A. In the Cluett patent in suit there is described and illustrated a method of attaching a bosom to a shirt body. This method is stated briefly to consist of placing the different layers of the materials of which the bosom is composed upon each other with the linen exterior facing uppermost, then binding the raw edges of the bosom with a bias-cut piece or strip of the fabric, attaching it to the shirt, and then by means of an outer row of stitching con-

1073 necting the folded edge of the binding also to the shirt. In the Marr patent named in the question, which illustrates and describes a bosom shirt, the following occurs: "The edges of each fly and the bosom front may be bound with binding." But in this patent there does not appear, however, the outer line of stitching which connects the binding to the shirt body, which is shown and described in the Cluett patent. In the Salmon patent named in the question there is described and illustrated a bosom shirt with the bosom attached to the shirt body by means of a binding formed in the body, or better described as a gutter seam formed in the body, by which the latter is folded over the edge of the bosom, and thereat, at two points in parallel arrangement, the bosom and shirt body are stitched together; but this method of binding the bosom in the Salmon shirt differs from that shown in the Cluett patent in the fact that in the latter, as before described, a separate piece of binding is used.

Q. 5. Please look at Defendants' Exhibit Nicoll Patent, December 23d, 1885, L. T., N. P., and state whether you have read and examined the same; and, if so, in what respect it resembles or differs from

the device shown and described in the Cluett patent in question, and give your reason for any opinion that you may express.

A. I have read and examined the patent named in the question, and I find to occur in it at page 5 thereof, commencing at folio 25, the following: "Another part of my invention consists of a novel mode of finishing the edges of shirt collars and cuffs or wristbands and parts of garments or other articles which are suited to receive bindings. In finishing or binding edges according to my improved method I first stitch a narrow slip of colored or plain fabric onto the edge of the article, bringing the edge of the article and the edge of the strip or binding even with each other or nearly so.

1074 The opposite edge of the strip or binding is turned over in the form of a half hem, and when the strip has been thus attached I fold or turn back the strip from the line of stitching already made, and bring it over the edge of the article. I then introduce a second line of stitching through the article and through the underneath portion of the binding, which has just been turned under, taking care that these stitches be as close to the upper edge of the binding without catching it." No illustration accompanies this patent, but from the description which I have quoted it would include the application of the binding piece or strip to cover and enclose the edges of apparel articles, and in this respect the binding would perform the same function and — relatively applied to the part in the same manner as the binding is used to enclose the edges of the bosom of the shirt shown and described in the Cluett patent. There would be wanting, however, in it the single line of stitching connecting the outer folds of the binding with the body of the garment, as appears in the Cluett patent. How far the second line of stitching through the article and through the binding which has been turned under would perform the same function as the line of stitching designated O in the Cluett patent, connecting the binding with the body of the garment, I am unable positively to determine, for the reason that it is not illustrated by any drawing, and no proportion of distance is named between the two lines of stitching. How far the outer line of stitching in this Nicoll patent would perform the same function as the stitching O of the Cluett patent would depend necessarily upon the width of the strip and the bight or hold which the first line of stitching had upon the enclosed edge of the garment fabric. Nicoll evidently provides for a row of stitching to connect his binding piece with the edge of the garment, and "a second line of stitches through

1075 the article and through the underneath portion of the binding which has been turned under, taking care that these stitches be as close as possible to the upper edge of the binding without catching it." My best understanding of this device, however, is that this second line of stitching, although it connects the binding with the garment, is not arranged in the outer and folded edge of the binding as in that shown in the shirt described in the Cluett patent, but functionally it connects the binding with the body of the garment, performing really the same function as the

outer seam of the binding of the Cluett device in that respect, the only difference being that of location.

Q. 6. Please look at Defendants' Exhibit A, Defendants' Exhibit X, Borchardt Shirt, Defendants' Exhibit Y, Borchardt Shirt, Defendants' Exhibit Z, Borchardt Shirt, Defendants' Exhibit Isaac Wallach Shirt No. 1, Defendants' Exhibit Isaac Wallach Bosom No. 2, Defendants' Exhibit Isaac Wallach Bosom No. 3, Defendants' Exhibit Isaac Wallach Bosom No. 1 and state wherein they resemble or differ from the shirt shown and described in the Cluett patent, and give your reason for any opinion that you may express.

A. On examining the Isaac Wallach bosom No. 1 I find that it has a binding piece enclosing raw edges, and in this respect this binding piece upon the bosom performs the same function that the binding piece shown in the Cluett shirt does relatively. I also find the same as regards the Isaac Wallach bosom No. 3. I find that the Exhibit Isaac Wallach Shirt No. 1 contains a bosom that has its raw edges enclosed by a binding piece, and the bosom and binding piece are attached to the shirt body; but it has not an outer row of stitches connecting the binding with the body of the garment, as occurs in the Cluett patent. On examining the Borchardt Exhibit X I find it to contain a ruffled or shirred bosom, the raw edges of which are enclosed by a binding strip, and this binding strip is attached to the garment on its inner
1076 edge, or that edge nearest the bosom, by a line of stitches, and that this binding strip further has upon its outer edge, near the line of its central longitudinal fold, a line of stitching connecting said binding piece with the body of the garment thereat. As between this Borchardt shirt, Defendants' Exhibit X, when compared with the device shown in the Cluett patent, there are these differences: that the bosom of the Cluett patent is composed of one or more thicknesses of material laid one above the other and enclosed by the strip, while that shown in Exhibit X being considered is a shirred or ruffled bosom. On examining the Borchardt shirt, Defendants' Exhibit Y, I find it to be made in all respects like Defendants' Exhibit X, and my answer as to X will apply to Exhibit Y. I find, on examining Defendants' Exhibit Borchardt Shirt Z, that the overlap or fly of the front opening of the shirt has its raw edges enclosed by a binding strip; but this binding strip is not attached to the body of the shirt by an outer row of stitches, as is the binding piece shown and described in the Cluett patent. On examining Defendants' Exhibit A I find it to be a shirt having a bosom composed of two thicknesses, which is attached to the body of the shirt. The raw edges of this bosom are inclosed by the binding piece, that is cut on a bias from the material; that this binding piece is arranged to inclose the raw edges of the bosom, and upon its outer edge this binding piece is attached to the shirt body by a line of stitches arranged in the binding piece near the edge of its longitudinal central fold. On comparing this shirt, Defendants' Exhibit A, with the device shown and described in the Cluett patent named in the question I find it to contain the same elements, the same arrangement of parts, connected in the same manner, and

arranged relatively to each other to perform the same functions.

1077 Q. 7. Please look at Benjamin detached bosom for identification and Benjamin detached bosom and body No. 2 for identification and state in what respect the bosom there shown differs from or resembles the construction shown and described in the Cluett patent, and give your reasons for any opinion you express.

A. As I understand the exhibit, the Benjamin detached bosom represents what was termed in the trade, when they were more or less used, a dickey, and this sketch shows such a device having its raw edges inclosed by a binding piece, which at the upper face of the binding fold is shown as turned in, and on the under fold of the binding is represented as not being folded like the upper portion of the binding. At 2 of this bosom, or the last section shown upon this page, the dickey is illustrated as having two layers with the binding applied to the raw edges of the dickey in the same manner as I have described it is applied to the upper section of the drawing. In the "Benjamin detached bosom and body No. 2," at figure 1, the bosom is illustrated in section as having a binding, but which, at its upper edge, is turned in to be embraced by the stitching which connects the binding with the bosom, and the lower edge of the binding is left free, as in the other Benjamin drawing. Figure 2 of the Benjamin detached bosom and body No. 2 shows a section of what I conceive to be a shirt body and bosom, with the latter having a binding that on its upper fold has its edge turned inwardly, to be secured thereat by the stitching, which connects it with the body, with the lower and raw edges of the binding left free, and not included or turned in. This drawing also shows another line of stitching outside of the one before named, through both folds of the binding, the inclosed edges of the bosom, and the shirt body.

1078 Defendants' counsel offers in evidence the "Benjamin detached bosom and Benjamin detached bosom and body No. 2," and are marked respectively "Defendants' Exhibit Benjamin No. 1 and Benjamin No. 2, L. T., N. P., April 6, 1886."

Q. 8. Look again, please, at Benjamin detached bosom, now marked Benjamin Exhibit No. 1, and state what would be necessary to make it conform with a shirt as shown and described in the Cluett patent.

A. It would be merely necessary to turn in the lower raw edge of the binding so as to have the latter thereat inclosed by the stitching which first connects the bosom with the body of the shirt, and then put a second row of stitching through the body of the shirt at the lower edge of the binding fold.

Q. 9. What difference would there be in the function of the binding in the Cluett patent in inclosing raw edges of the bosom as compared with the function of any other binding?

A. There would be no difference. If there were any it would be merely a difference of degree.

Q. 10. What would be the function of a binding on a dicky?

A. Merely to include the raw edges thereof and keep them from

fraying out or unraveling. That would be the general function the binding. It might also have the function of stiffening the pa there applied, which the additional material there required wou necessitate.

Q. 11. What would be the most ordinary method suggesting its to you or a needle-woman, if you please, of attaching a binding a dicky?

Question objected to on the ground that the witness is not a needl woman.

1079 A. I can't tell what a needle-woman under the circum stances would do, but I can tell what I would do and what think a needle-woman would do if she was possessed of ordinar common sense in carrying out the purposes of her calling. The function of the binding being to inclose the raw edges of the dicky I can't conceive that a woman would be so stupid as to turn in and secure the upper edge of the binding, as, for instance, appearing in the Benjamin exhibit, and then leave the lower raw edge of the bind- ing free and without connection, seemingly for the purpose of having it unravel or wear out. To my mind, and I think it would be the same with the needle-woman having the lowest type of ordinary skill, that the lower edge of the binding piece should be turned in in the same manner as it appears to be turned in in the upper fold of the binding in the Benjamin exhibits. If I were to apply a bind- ing I should apply it in the usual way in which it is done, and al- ways has been done so far as I can remember, by turning in both edges of the binding, unless the binding employed was a tape having selvedge edges which would not unravel.

Q. 12. Referring to your last answer, in case the binding was a very narrow strip, such as is shown in Defendants' Exhibit A, would the person attaching the bosom to the shirt be apt to dispense with the turning in of the under layer of the binding?

A. If the lower edge of the binding was enclosed and not exposed to the wear produced by washing it or ironing it I think it would be immaterial whether it was turned in or not; if applied to a dicky, where both the edges of the binding are exterior edges, so to speak, it would be better to turn in both edges.

Q. 13. Please tell us whether in the making of collars and

1080 cuffs it is not customary to leave the raw edges where turned in free and unsecured, and what effect laundering has upon this.

A. Collars and cuffs are made by laying the several folds of the material of which they are composed one above the other, sewing them around the edges, leaving a margin, and then turning them through an unclosed portion in one of their sides. The inturned raw edges are thus left free, with quite a lap, and unsecured, and these turned-in edges are in those parts of collars and cuffs which get the most soiled and used by wear and require more and harder manipulation when washed, but I do not think in my experience that they are at all troublesome or have any bad effects in launder- ing the goods.

Q. 14. And what effect would this customary way of leaving the raw edges of collars and cuffs unsecured between the folds of the fabric have as compared with leaving a broad raw edge of the binding of the bosom between where the folds of the fabrics unsecured in the same manner?

A. I can conceive of a very wide piece, a couple of inches in width say, left free and unsecured at its ends and centre where possibly such an area might interfere in laundering goods, but frequently the raw edges from a quarter to half an inch are left without interfering with the work of laundering and giving a good finish to the goods.

Q. 15. Would there be apt to be any clotting of the starch, referring to your last answer?

A. In laundering collars and cuffs they are generally first treated in very thin starch by being beaten in a dash wheel. This is done for the purpose of supplying starch to the interior ply or thicknesses. When this has been done they are again starched exteriorly with heavy or thick starch, which is rubbed into their exterior surfaces by hand. Now, if clots are formed in the goods during this process they are produced by the last application of starch, which has
1081 been rubbed onto their exterior surfaces; and I have never heard in my experience of clots forming on the interior of articles being laundered, and consequently the enclosed raw edges of the fabric, which are interiorly placed, would not come in contact with the heavy starch applied to the surface of the goods, and I can't conceive that it would be possible for such enclosed raw edges to have anything to do with starch clots, which, when appearing in the goods at all, must come from the exterior starching which has been placed upon their outer surface.

Q. 16. What is meant by selvedge edges?

A. A selvedge edge is one of the woven edges of a piece of fabric in which there are no ends of thread loosely left.

Q. 17. Can the terms raw and selvedge edge be used synonymously?

A. They cannot be if they refer to the relative character of the edges. In the one, the selvedge edges, the ends of the threads are all secured. In a raw edge the ends of the threads have been cut and are free, and, as a consequence, while a selvedge edge would not unravel when in use, a raw edge would; and in that respect are radically different.

Q. 18. How would the function of the "stitching O" of the Cluett patent differ, if at all, from any other line of stitching connecting two pieces of a garment together where one was laid over the other?

A. The function of the line of stitching in either case would be the same.

Q. 19. Does the binding of the dicky shown in the Banjamin exhibit perform all the functions of the binding as applied to the bosom of the shirt as shown and described in the Cluett patent?
1082 A. So far as enclosing the raw edges of the bosom is concerned, it does.

Adjourned till 2.30 p. m.

Met pursuant to adjournment at 2.30 p. m.
Present: Same parties.

Q. 20. Please describe the method of starching shirts, and tell us whether a shirt having a bound bosom, with the upper edge of the binding turned in and the lower layer of the binding not turned in and loose, in the process of laundering would be clotted.

A. If the lower turned edge of the binding were included between the inner face of the bosom and the shirt body by the seam which connects the binding with the shirt I don't think the raw edges of the binding would tend to the production of clots in the process of starching. Shirts are generally not starched in the body part, although some manufacturers put enough starch in them to answer as a sizing, and the starch which is applied to the bosom of the shirts is applied to the exterior surfaces of the latter. Now, I can't conceive of any reason why the raw edge of the binding, if the same be enclosed, as I have stated, between the lower layer of the bosom and the shirt body, could in any way tend to the production of starch clots. Now, in case of a set-in bosom, where the shirt body is cut out to receive the bosom, the edge of the binding, if not secured, might tend to unravel, but I doubt very much if it would tend to the production of starch clots thereat.

Q. 21. Please look at Complainants' Exhibit Defendants' Shirt No. 3 and state whether you find anything in the prior state of art which resembles or differs from the construction shown in this exhibit.

1083 A. On examining the Complainants' Exhibit Defendants' Shirt No. 3 I find that the outer edge of the bosom is attached to the out fold made on an opening cut in the shirt. There is attached a narrow strip of material, which does not include the edges of the bosom so as to overlap and underlap them, as a binding would do, and this edge of the bosom thus covered by the narrow piece is left free upon the shirt body so as to have a fly, and on examining the patent No. 3086 of 1860, granted to Richard Adams Ford and William Adams Paige, at figure 1 of drawing attached to said patent, there is shown a strip of material laid exteriorly upon the bottom of a shirt bosom and front.

Defendants' counsel offers in evidence Ford and Paige patent, and the same is marked Defendants' Exhibit Ford and Paige Patent, April 6, 1886, L. T., N. P.

Q. 22. From your knowledge of the state of the art prior to the Cluett patent as shown in the various patents about which you have given testimony, and also as shown in the construction of the various shirts about which you have testified, what novelty or invention, if any, was there in the Cluett patent? And give your reasons for any opinion you may express.

A. On examining the Cluett patent I find there is described a method of binding the bosom and connecting the bosom to the shirt body by means of a line of stitching passing through the binding and the body. The patent states the object of the in-

vention to be to avoid folding in the edges of the bosom and the raw edges and loose threads thereof, which disfigure the bosom when so folded in. Another object of the invention, the patent states, is to stay the bosom, rendering it firmer in itself and less likely to rumple or break, and, further, it is stated one of the
1084 objects is to avoid wrinkling up of the bosom by the unevenness or fulling up of any one of the layers composing the bosom or any parts thereof. So far as the "fulling up" of the material of which this bosom is I assume to be made, that of linen or of cotton would hardly occur to such a material, although it might occur in the use of woolen goods. On examining the drawings of the patent I find that a binding is applied to the edges of the bosom, and this binding is shown as turned in upon its edges, but there is nothing in the patent as I read it which states that this turned-in condition of the binding edges is a necessity, and, as the invention is described, it would necessarily include any binding piece whether turned in on its edges or not. The attachment to the shirt is made by a row of stitching through the folded binding outside of the raw edges included between its folds, as indicated at O, figures 10 and 3 of the drawings. Now, on examining the Marr patent of January 14, 1873, I find the following to occur: "The edges of each fly and the bosom front may be bound with binding," showing that at that date binding the edges of a bosom was not new. I also find on examining the Salmon patent that a bosom had been connected to a shirt by forming an entrant fold in the latter where cut out, placing the raw edges of the bosom within such fold and stitching them down therein by two rows of stitches, one row of which was made through the overlap of the shirt body and through the bosom and the other at the outer edge of the fold, to thus enclose the raw edges of the bosom. I also find on examining Defendants' Exhibit Y, Borchardt Shirt, that a ruffled bosom had been attached to a shirt body by means of a binding which enclosed the raw edge of the bosom, and by a row of stitching through the outer edge of such binding and the shirt body. In this Exhibit Y, Borchardt Shirt, the binding performs the function of enclosing the raw edges of the bosom
1085 and a row of stitching through the outer edge of the binding connects the attached binding to the body and shirt. How far in a legal sense a ruffled bosom would be the equivalent for a sheet-form linen or cotton bosom I do not know, nor how much invention there would be in seeing a shirt having a ruffled bosom thus made, and taking a binding so enclosing the raw edges of a bosom and connecting that binding with the shirt when applied to an ordinary plain sheet-form linen or cotton bosom; but this thing on an examination would be found to occur: that the binding strip in this Borchardt shirt, Exhibit Y, would perform the function of enclosing the raw edge of the bosom, and the line of stitching made through the outer edge of this binding would perform the same office in connecting this binding with the shirt body.

On examining Exhibit A of defendants I find it to be a bosom shirt, the raw edges of the bosom and its ply being enclosed within a binding that overlaps and underlaps those edges, and that this

binding on its outer edge is provided with a row of stitching which connects the binding thereat with the shirt. The outer edge of the binding in this Exhibit A is turned in, as shown in the Cluett patent, but the underlapping portion of the binding in this Exhibit A is not turned in, but is secured between the shirt body and the bosom by the line of stitching which connects the latter with the shirt. Now, in view of this condition appearing in Exhibit A, the binding is placed thereon — encompasses so as to overlap and underlap the raw edges of the bosom, as the binding does in the device shown in the Cluett patent, and a row of stitches through the outer edge of this binding in this Exhibit A performs the same function in connecting a bound bosom with the shirt body as does the stitching O of the Cluett patent.

The difference between the underlapping part of the binding in Exhibit A is shown to be a little wider than that shown in
1086 the Cluett drawing, but the row of stitching in Exhibit A which connects the binding with the shirt performs the same function in one that it does in the other. In both the Cluett patent and the shirt Exhibit A the outer line of stitching indicated at O in the Cluett patent does not pass through the raw edges included by the binding.

In view of this prior condition of the state of the art it appears that it was not new to bind the bosom so as to include its raw edges, neither was it new to connect the outer row of the binding inside of its longitudinal fold with the shirt body by a line of stitching. Therefore all of the elements seemingly of the Cluett patent are found in these old exhibits I have named, and, as I have stated, arranged to produce the same functions in Exhibit A, Exhibit Y of the Borchardt shirt, and Exhibit X of the Borchardt shirt.

Direct examination closed.

Cross-examination by JAMES A. SKILTON, Esq.:

X Q. 23. In addition to your business as mechanical and chemical expert counsel you have also been engaged as a solicitor of patents, have you not, and for how long?

A. I have acted as a solicitor of patents to a limited extent for the last six or eight years, but I have not done during that time a general soliciting business.

X Q. 24. About how many clients have you who are engaged in the manufacture of shirts and collars?

Objected to as improper, irrelevant, incompetent.

A. I think I have some seven or eight of whom I act as expert counsel and occasionally as solicitor of patents.

1087 X Q. 25. Several of them are located in the city of Troy, are they not?

A. They are.

X Q. 26. Have you ever acted as solicitor and obtained letters patent for any of your clients in which a shirt bosom was bound on

the edge with a binding and attached to the shirt thereby? And, if yea, please state how many such patents you have procured.

A. I have procured quite a number of patents for method of attaching bosoms to the shirt, some of which were bound bosoms; and if you mean by attaching to the shirt that the binding is attached by an outer row of stitching, I don't think I have solicited any such patents, nor can I from memory state definitely how many patents I have obtained for clients for means for attaching bosoms to shirts.

X Q. 27. About how many should you say?

A. Well, I should say from five to ten; I don't remember. That kind of work is generally done by employees in my office, and my only part in the matter is looking them over and my appearance as solicitor.

X Q. 28. I call your attention to letters patent of the United States No. 276,809, granted to William L. Hall, of Troy, New York, and dated May 1, 1883, and ask if that was one of the patents obtained by you as solicitor.

A. It is.

X Q. 29. Did you conduct the application before the Patent Office?

A. My impression is that I prepared the specifications in that case myself. The claims, I think, as they now appear, were the work of my associate in Washington, Mr. Heylmun.

X Q. 30. In this patent of May 1, 1883, there are the three elements, to wit, a shirt bosom, a shirt body, and a binding, are there not?

1088 A. Without desiring to embarrass this examination in the least, I must decline to discuss any further than I have the invention shown and described in the patent named in the question, for the reason that it is made and sold by a firm who are rivals of the complainants of this suit in business, and it is possible that I may be called upon to describe that patent in another suit, and I must decline to do it here, with all due respect to the learned counsel who is examining me. I respectfully ask him to waive my answer as to the invention in the patent named in the question.

X Q. 31. I call your attention further to letters patent of the United States as follows, No. 307,153, granted to I. P. Turner October 28, 1884, for a shirt; No. 308,607, granted to W. L. Hall December 2, 1884, for a bosom shirt; No. 313,520, granted to G. W. Pine March 10, 1885, for a bosom shirt; No. 331,786, granted to W. L. Hall December 8, 1885, for a bosom shirt, and No. 336,106, granted to W. L. Hall February 16, 1886, and ask if you acted as attorney in procuring these several patents.

A. I acted as solicitor, and my impression is that I supervised in the preparing of all the specifications of those patents originally; but they were more or less amended in their specifications and claims by my associate at Washington, whom I before named.

X Q. 32. I now repeat X Q. 30 with reference to the particular patent mentioned in that question, and also in regard to the several patents mentioned in X Q. 31. What I desire to know at this time is simply whether or not, in the several inventions shown and de-

scribed in these several patents, there are the three elements, to wit, a shirt bosom, a shirt body, and a binding, found in mechanical combination with each other. Please answer the question after examining each specification and drawing now submitted to you for that purpose.

1089 Objected to on the ground that all these patents referred to are subsequent to the Cluett patent, and that it seems rather that counsel for complainants wishes to obtain expert opinion on other patents under which competing manufacturers may be manufacturing; that these patents are irrelevant to the issue, not set up in the answer, nor referred to on the direct examination; that the testimony is incompetent and irrelevant and the usual notice given, and that while the expert, in his capacity as a solicitor of patents, may well have sought to obtain letters patent for applicants, taking them for all they are worth, his testimony as to the later state of the art has nothing to do with the case.

A. In the patent No. 276,809 a binding is shown as enclosing the turned-in edges of the shirt and reinforce and the turned-in edges of the bosom to produce a corded appearance on the edge of the bosom. Patent No. 307,153 shows a strip formed with an entrant fold longitudinally made therein and adapted to receive the edges of the shirt. In this latter patent there is no shirt shown, merely the bosom, the strip, and the entrant fold made therein. In 308,607 there is shown an in-folded strip, a shirt body, and a bosom; but the in-folded strip does not perform the functions of the binding. In patent No. 313,520 no binding piece is shown, but a strip is shown as inserted between the bosom and shirt to form a beaded edge thereat. There is shown in this latter patent a bosom and shirt body. In patent No. 331,766 there is shown a shirt body, a bosom, and an exteriorly placed folded border piece, which is stitched to the exterior edges of the bosom and the shirt, but does not form a binding piece in enclosing anything between its folds; and
1090 in patent 336,105 there is an exterior border piece attached to the outer edge of the bosom; but this border piece, as in the last-described patent, does not perform the functions of a binding piece by including any of the other parts of the garment between its fold. It does contain, however, a shirt body and bosom. On referring back to my answer in regard to patent 276,809 I will state that, in addition to the binding piece I have named, there are also found the elements of a bosom and a shirt body.

Adjourned until to-morrow, April 7th, 1886, until 10 o'clock a. m.

NEW YORK, *April 7th*, 1886—10 a. m.

Met pursuant to adjournment.
Present: Same parties.

Cross-examination of WILLIAM E. HAGAN resumed:

X Q. 32. Out of the four or five hundred patents of the United States already granted how many have been obtained through your office?

A. I do not remember exactly; I should say, to the best of my recollection, that perhaps 30 to 40 may have been.

X Q. 33. Is it not true that in each one of the United States letters patent to which you have been referred by number on cross-examination — show- inventions in which there is a shirt bosom, a shirt body, and a strip of material related to both the shirt body and the shirt bosom at or near the edges or point of junction of the same, this strip being used either as a binding or as a stiffening device or for some other purpose?

A. I think the elements named do all occur in the patents designated by numbers, and concerning which I have testified in my cross-examination, although one of them, the patent of "Turner," while it shows a bosom and a strip, does not show a shirt
1091 body, but the function of the strip in this patent really performs the functions as a co-operating factor in connecting the bosom with the shirt.

X Q. 34. A shirt body is, in this Turner patent, by implication, a necessary part of the invention, is it not?

A. I don't think it is made an element of the claims, but inferentially the invention adapts the bosom to be connected to the shirt body, and therefore in one sense it may be implied.

X Q. 35. In these several patents to which you have been referred by number on cross-examination you would not say there was no invention disclosed, would you, at the date of the several applications therefor?

A. Inasmuch as there are quite a large number of those patents — I haven't examined some of them in a long time, I am not prepared to answer the question. My best recollection of them is that they do contain invention more or less. Some of them may be necessarily limited in their scope, and others of them for process patents for involving the prosecution of a series of consecutive steps, and in that respect containing invention. As to any further answer as to the question of invention occurring in those patents I must decline to answer, for the reason that while I do not care to embarrass the proceedings herein, yet I do not feel like going into the merits of the inventions of those patents while on the witness stand and being interrogated by counsel for the Cluetts, complainants in this case, who are, as I understand it, hostile to most of the parties to whom these patents were granted and their competitors in business, for which persons I am expert counsel.

X Q. 36. Not desiring to embarrass the witness, and that I may if possible avoid doing so, I ask the witness to mention the names of these persons or firms alluded to in the last answer as com-
1092 petitors of the complainants herein, so that my action may be intelligently guided in the further prosecution of this cross-examination.

A. I don't think the previous question propounded embarrasses me, as assumed in the last question, but I stated I did not wish to embarrass the proceedings herein by declining to answer, and I am perfectly willing, so far as I remember, to give the owners' names of those patents. It is my impression that all or nearly all the

patents which have been designated to me by numbers on my cross-examination and to which the next to the last question refers are owned by Messrs. Miller, Hall & Hartwell, of Troy, New York; G. W. Pine, of Troy, N. Y.; that is as far as I can remember at present. Those parties are the owners of those patents or were when the patents were issued, and some of them may have been owned by others, and whether now any of them are owned by the parties I do not know positively, excepting so far as Miller, Hall & Hartwell are concerned.

X Q. 37. What do you mean by the word "hostile" in your answer to your X Q. 35?

A. I mean that they have been threatened by Cluett & Company with suits, and this I state upon information and belief.

X Q. 38. Do you understand that the parties referred to are manufacturing shirts in which a binding or separate strip of material is used at or near the edge of the bosom?

A. As a fact, I do not know whether they are or not; my impression is that they are.

X Q. 39. And the hostility to which you refer, as you understand or are informed, grows out of that fact, does it not?

A. That is what I meant by the term hostile.

X Q. 40. In view, then, of these several patents to which you have been referred by number on cross-examination, and which were obtained by you or through your office, you would hardly say, would you, that in view of the state of the art at the date of the
1093 Cluett patent here in suit it would not be new—that is to say, that there would be no invention so far as novelty is concerned—in combining a shirt bosom, a shirt body, and a strip of binding material or its equivalent?

A. There might be invention in it and there might not be; it would depend entirely upon what the manner and means used were to connect these parts. If the only measure of novelty was the simple matter of a single row of stitches connecting a bound bosom to a shirt it would be a question whether there was any invention in such a step or not, provided that a bound bosom had been used before; but I can readily conceive of a variety of ways in which a binding piece or strip could be used upon the edge of the bosom by a series of connected steps in the process of manufacture and constitute invention, and my best recollection of the patents which have been designated to me by number is that none of them depend for their novelty upon a single row of stitches which has been added to something which is old, and consequently they may contain a measure of invention.

X Q. 41. As a matter of fact, then, you do not find that there is no invention in the Cluett patent here in suit, do you?

A. I don't pretend to discuss this question in its legal aspect; but as I am asked a direct question as to matter of invention, I answer, to the best of my understanding, that there is no invention in it. I can't conceive that in adding a single row of stitching to a bound bosom, which is an old device, to connect it to the body of a shirt would call for the exercise of any inventive faculty whatever;

that it would merely call into use the ordinary and simple experience of a needle-woman. A bosom having been bound before, as stated in some of the older patents to which I have formerly alluded,

1094 I can't conceive that the taking of such a bound bosom and connecting it by a single row of stitches through the binding to the shirt would involve invention, and the assumption in the question that I have in my examination considered the matter in a different light I think is not correct.

X Q. 42. Is it your view, then, that the novelty disclosed in the Cluett patent here in suit, if any, consists in "adding a single row of stitching to a bound bosom to connect it to the body of a shirt"?

A. Considered briefly, it is.

X Q. 43. And is such novelty, if any, in your view limited to that particular feature?

A. How far the patent may be limited in its legal construction to just what it shows or how far it may be interpreted to cover equivalents in a legal sense I am not lawyer enough to answer.

X Q. 44. My question was intended to ask in reference to the article itself, and not for a construction of the patent. Please answer the question in that view of it.

A. The Cluett patent shows and describes a method of binding a shirt bosom and the attachment of that shirt bosom to the shirt body. Now, if you leave out the row of stitches which attaches the bosom to the shirt the object and purpose seemingly of the invention would be lost by the omission, and consequently to carry out the purpose and object of the invention seemingly the seam which connects the bosom to the body of the shirt is an essential factor; and in such a sense as I have stated I think it is limited, or rather that the connecting seam is a necessary part of the attachment. By term article, named in the question, I assume the interrogator to mean the completed device, and I find the following to occur in the patent: "The invention consists in the shirt bosom or a shirt and bosom so constructed, and not in the bosom alone." Now, if the bosom and shirt so "constructed" meaning the "article" named in the question, then the assumed invention is limited to a means

1095 for connecting the two and not for the bosom alone, the only means shown being the seam I have stated; and this view of it is so limited, and by the term "limit" I mean some equivalent means for connecting the bosom and shirt to produce the "article."

X Q. 45. Have the opinions you have expressed in your testimony herein been formed upon the theory that the invention shown in the Cluett patent is limited to the means for connecting the shirt bosom and the shirt body, as stated in your last answer?

A. For answer to the question I refer you to my answer to the last preceding question as the best answer I can make to the question, as I understand it.

X Q. 46. I now call your attention to the following U. S. letters patent: No. 319,487, dated June 9, 1885; No. 322,717, dated July 21, 1885; No. 322,718, dated July 21, 1885, and No. 332,799, dated December 2, 1885, all of them granted to Max Harman, of Troy, New York, and ask if you do not find that the manufacture disclosed in

each one of these letters patent was a bosom, a shirt body, and a strip of binding or other material performing the function of a binding in mechanical combination.

Objected to on the ground that these patents are subsequent to the Cluett patent; that they are irrelevant, are not set up in the answer, and have not been referred to, either in the witness' direct examination or in any part of the testimony heretofore taken; and the usual notice given.

Counsel for complainants states that the question is put to the witness as an expert, and for the purpose of testing his method
1096 of construction of the various inventions mentioned in his direct testimony.

A. I think they are so found in the patents named. I say so from an examination of the drawings alone, and without reference to the specification. A strip is used in some of them and in others a fold is made in the edge of the opening.

Counsel for complainants here gives notice, under section 894 of the United States Statutes in relation to patents, that he will read from the volumes printed by the Patent Office the specifications and drawings of the following letters patent, to wit: No. 276,809, May 1, 1883; No. 307,153, October 28, 1884; No. 308,607, December 2, 1884; No. 313,520, March 10, 1885; No. 331,786, December 8, 1885; No. 336,106, February 16, 1886; No. 319,487, June 19, 1885; No. 322,718, July 21, 1885; No. 322,717, July 21, 1885; No. 332,799, December 22, 1885, at the hearing herein as competent evidence in this case.

Defendants' counsel here gives notice that at the proper time and place he will object to the reading of the foregoing patents as competent evidence.

X Q. 47. Taking into consideration the several manufactures shown, described, and claimed in the several letters patent of the United States mentioned in X Q. 46, I ask you if, in your opinion, prior to the date of the Cluett patent and invention here in suit, the field of novelty of invention in the combination of a shirt body, a shirt bosom, and a strip of binding material was limited, in view of the state of the art, to a case where a single line of stitching was used or should be used, passing through the binding of a bound bosom and securing the same to the shirt body?

1097 A. I answer that I do not understand the question without some explanation, in the fact that I am asked to compare later patents with an older patent as to a feature of novelty occurring in the older patent, and in which the later patents could have no condition that would limit the older patent in matter of invention. If the interrogator means, as I assume him to do on explanation, whether the Cluett patent being limited, as I have defined it, to a single row of stitches connecting a bound bosom to a shirt, and with such a construction of the Cluett patent assumed to constitute invention, whether it covered the whole field or not, in which a bosom, a binding for the latter, and a shirt body could be combined,

even then I do not think Cluett in his patent would have compassed the whole line of subsequent invention, and, as shown in the patents named in X Q. 46, so far as I have examined them, the question alludes to the claims of those patents, which properly belong to the court to construe rather than an expert, and I make this answer on merely an examination of the drawings and a partial examination of the specifications of those patents. The bosom being an old factor in a shirt, a bound bosom having been attached to a shirt as shown in the Marr patent, and Cluett having added a line of stitching to the bosom so bound to attach it to the shirt, if he made any invention in so doing I can't necessarily conclude that such assumed invention would include all other ways of doing it, and that subsequently others would have just as much right to improve upon the Marr patent as he did in the way of invention.

X Q. 48. As I understand your last answer, prior to the date of the Cluett patent and invention here in suit, it is your opinion that the field of novelty of invention in the combination of a shirt body, a shirt bosom, and a strip of binding material was, in view of the state of the art, open or unoccupied, notwithstanding the
1098 previous use of a line of stitching securing the bound bosom to the shirt body. Am I correct in that understanding?

A. I answer that I do not understand the question. If the interrogator means that all that Cluett added to the prior state of the art was a line of stitching, as I have stated, he developed one way of attaching the bosom to the shirt. In the Marr patent the bosom is shown as bound and buttoned onto the shirt. In Exhibit A, defendants', which I assume to be older than the Cluett patent, a bound bosom is attached to a shirt body by a line of stitching through the binding, connecting the latter with the body. This Exhibit A would certainly embody substantially the same means as that employed by Cluett, and if developed so as to have standing it would certainly make the field open and free to the public by which a shirt could be connected by a binding on the bosom with the shirt body by a line of stitching. If Exhibit A have such standing as entitles it to a position as a matter of evidence, in my opinion it would be in anticipation of the Cluett patent and make open to the public the alleged invention shown in the Cluett patent. I make this answer assuming Exhibit A to be older than the Cluett alleged invention.

Adjourned till 2 p. m.

Met, pursuant to adjournment, at 2 o'clock p. m.
Present: Same parties.

Cross-examination of WILLIAM A. HAGAN resumed:

X Q. 49. It seems to be your opinion that at the date of the Cluett patent here in suit there was little or no room or standing ground for an invention of which the bosom, shirt body, and binding were the elements. What I desire to know is, in view of the fact
1099 that you find little or no room for one invention, how you find standing room for the ten other inventions shown in

the particular patents to which your attention has been called by number on cross-examination.

A. If the subsequent patents to which my attention has been called in the question rested on so simple an attachment as that made in the Cluett patent I would consider them in the same light; but, inasmuch as I have regarded the Cluett patent — being merely the addition of a single line of stitching to the bound bosom of the Marr patent, I can't conceive, with the problem before a person of the attachment of a bosom to a shirt, how the use of a single seam, that would suggest itself to the needle-woman, would involve the exercise of any inventive thought. Now, so far as my best recollection of those subsequent patents to which my attention is called in the question is —, that in none of them do they depend upon any one line of stitching, but that in all of them there are series of connected steps which are necessary to make and complete the attachment. Consequently, while I could assume that there was no invention in the Cluett patent, in my opinion I would have reasonable ground to believe that there might be invention and was invention in the subsequent patents named in the question. I do not think that I have stated on my examination that at the date of the Cluett patent there was no field in which invention could be exercised in the attachment of a binding to a bosom and a bosom to a shirt.

X Q. 50. What additional features or elements beyond the three named in the last question are to be found in combination in the ten patents to which you have been referred by number?

A. I have in my previous answers designated what the general elements or factors employed for the attachment were, but omitted details and the process by which these parts are connected, and to give these details would necessarily involve a consideration
1100 of the specifications of the same patents, which I have not made and necessarily cannot do from memory or without a re-examination of the specifications alluded to.

X Q. 51. Without taking time unduly for the purposes of examination, but making such examination of the drawings and specifications here present as you conveniently can, please mention any features or elements to be found in the manufacture described by these ten patents other than or in addition to these three, to wit: a shirt body, a shirt bosom, and a binding of the shirt bosom. I mean any additional devices.

A. In patent 176,809 a binding piece is used, a bosom, and a shirt body. This binding piece includes the folded-down edges of the bosom ply, the turned-down edges of the shirt reinforce and body, and attached by a single row of stitching, so as to give a corded appearance on the bosom, and the binding on its outer edge free and unattached. Patent 307,153 shows a bosom made with a strip that is folded longitudinally, having its edges turned in, made between the ply of the bosom with the latter wrong side out, in which position the strip and bosom are connected together, the parts being then turned from the top so as to bring exteriorly an entrant fold which receives and binds, when secured, the body of the shirt. Patent No. 308,607 shows a shirt body, a bosom, and a strip of ma-

terial, the strip of material being shown as rolled up in the edge of the bosom and ply and thereat stitched to the bosom and body to give a corded appearance to the edge of the bosom. Patent No. 313,520 shows a bosom and a shirt body and a strip folded longitudinally and inserted between the bosom and body as connected to form a beaded edge projecting beyond the bosom. This strip does not act as a binding or include any parts exposed. Patent 331,786

1101 shows a shirt body made with a reinforce, a bosom, an exterior strip having infolded edges that is laid over the edge of the bosom and thereat stitched to and through the bosom, shirt body, and reinforce. This strip does not form a binding in that it includes nothing within its longitudinal fold. Patent 336,106 shows a bosom, a shirt body made with a reinforce, an opening cut in the shirt body and reinforce to receive the bosom, an outfold made in the edge of the opening, with the edges of the outfold and the edges of the bosom laid coincidently and a strip attached to the bosom at its outer edge by being sewed to and through the bosom, its ply, the outfold made in the body, and the latter and reinforce. This strip shown in this patent does not perform the functions of a binding, from the fact that it is not folded longitudinally and includes nothing having no folded edges. Patent 319,487 shows a bosom and shirt body, a strip of material folded to receive the edges of the bosom so as to include the latter. Patent 322,717 shows an entrant fold made in the edge of the shirt opening, the edges of the bosom inserted in the entrant fold, and an exterior strip attached to that part of the shirt forming the entrant fold and to and through the bosom. Patent 322,713 shows a shirt body, a bosom, and an exterior strip being made in the opening of the shirt, a fold and outfold upon its edge, having a reverse fold at the top of its exterior, with the edges of the bosom made coincidently with the edges of the outfold at the top, and stitching connecting the exterior strip with the bosom and outfold of the body and the strip and the exterior top fold of the outfold. Patent 332,799 shows a shirt body, a bosom, an outfold made in the bosom, a strip covering the outfold on its inner edge, stitched to and through the bosom and shirt body and on its outer edge through the strip and outfold without connection to the shirt body.

X Q. 52. In all these ten patents and inventions do you

1102 find any material—that is, substantive or mechanical—parts dealt with or involved in the structures except the following, to wit: A shirt body, a shirt bosom, a separate strip of material, and a line or lines of stitching? My question assumes, at least for the purposes of this question, that the so-called reinforce is a part of the shirt body. Please answer the question specifically and without going into elaboration.

A. There are necessarily in some of these patents which I have named features of construction which are important factors therein, which are made necessary by the method of utilizing a strip for attachment, to wit, an infold made in a strip, so that the strip may bind the shirt instead of the bosom; an outfold made in the shirt opening to utilize an exterior strip; a strip folded longitudinally, so

that it can be included in the turned-in edge of the bosom; all of which features are quite important in the application to insure a co-operating effect of the stitches. To answer that there is simply a shirt body, a bosom, and a strip of material would really relate only to the substance of which the parts are made, and all this variation from an infold to the outfold and entrant fold make these elements important factors in those patents as they are shown and arranged, and an omitted enumeration of them in connection with the question would hardly be a correct answer.

X Q. 53. My question was intended not to call for any statements of variation in the folding of the materials, but was limited expressly to a statement of any material parts outside of the three elements mentioned, so that we might understand the theories which you imply to the interpretation of the structure shown in the Cluett patent and claimed to be found in the state of the art as existing at the date of that patent. Can you name a fourth element in any of these ten subsequent inventions which does not appear in the
1103 Cluett invention and patent here in suit? Please answer directly.

A. I answer the question by stating that my last answer fully covered the ground of the question; that the outfold and entrant fold and the infold of the several parts as I have described them occurring in those patents are factors in the combination just as much as the difference would appear between a bar of iron which was straight and with it bent to produce a crank. The crank would still be made of iron and would have been a bar, but the bending of it suited it to a new and useful function, just as the folding of a strip to make an entrant fold would do, so that the entrant fold might include the edges of the shirt body instead of the bosom or an outfold made in the edge of the shirt-body opening would perform a function in the attachment that would be radically different if the attachment was made without the outfold.

X Q. 54. Then the novelties in these ten inventions and patents consist in variations of the folding and manipulation of the materials composing the three elements shown in the Cluett patent, to wit, the shirt body, the shirt bosom, and a strip of material, do they not?

A. In answering this question I must refer to one question under which this examination is proceeding that I should state briefly what features there were in several patents without going into details. This I did state briefly, and now I am asked on that brief statement if the novelty in these patents consist in the elements which I was called upon to briefly state, and I cannot answer that question without going into an examination of those specifications to describe the various methods of arranging those entrant folds, outfolds, and infolds and a stitching by which the parts are connected to each other. Now, if the interrogator wants the answer that there are in all of these patents, excepting the Turner
1104 patent, a shirt body, a shirt bosom, and a strip of material, I answer, to the best of my recollection, there are; but, situated as I am in regard to some of these patents, I do not care to

discuss the matter of invention if it can be avoided, particularly in comparison with the Cluett patent, and I ask the interrogator under the circumstances to waive the question of invention in those patents, as they are all of a date subsequent to the Cluett patent.

Defendants' counsel objects to this entire line of cross-examination on the ground that it has reference to patents issued since the Cluett patent in suit, not touched upon in the direct examination or any other part of defendants' record; that it is not proper cross-examination, has no bearing on the case, and on its very face shows that it is not made for the purpose of testing the ability of this witness as an expert, but is done for ulterior purposes having nothing to do with this case; that the witness has not stated that he has made an investigation of the state of the art concerning any of these subsequent patents in which he acted as solicitor; that it is unfair to thus examine an expensive expert witness at the expense of the defendants. Defendants' counsel gives notice that he will move to strike out the questions and answers appertaining to the patents subsequent to the Cluett patent from the record, and asks that the court compel complainants to pay defendants for unnecessary expense to which they were put by this line of examination; and if this line of examination continues much longer defendants' counsel asks that a judge of this court rule upon the relevancy of this examination before continuing the same.

1105 Counsel for complainants states that the witness, in answer to direct question 2, said that he had "had occasion to examine into and educate himself as to what constituted invention" in this class of articles. My questions have been directed to the ascertainment of the standard applied or made use of in deciding or in forming a basis for his opinion in this case. The fact that there have been subsequent inventions or alleged inventions which have been dealt with by this witness furnishes material which it seems to me is proper to make the basis of my questions for this purpose, since the work done in connection with those inventions was done without reference to giving testimony in this case and cannot, therefore, be subject to any suspicion such as always, more or less, accompanies or follows the sworn testimony of an expert; that he is endeavoring to support as well as he may be able the cause of the party by whom he is called. I disclaim any intention to go beyond anything but what is perfectly legitimate in this direction, or in fact beyond what is my duty to my clients in this case.

The witness continues: I would further state in answer to the last question that these patents contain the same number of pieces of material, variously and differently arranged as to their folding and method of attachment.

X Q. 55. As I understand, you entertain the opinion that the changes made with the three elements, the bosom, a shirt body, and a strip of material as arranged and put together in the Cluett patent, is only what a needle-woman of ordinary intelligence would do without making any invention herself and without the aid of any invention. Is that true?

1106 A. I have stated about the same substance in different words, to be my opinion.

X Q. 56. Now, then, as I understand you, these various modifications of folding and securing the parts in the ten patents which have formed the subject of recent questions would not have been made by a needle-woman of ordinary understanding. Is that true?

A. I do not think I used the word modification in my naming or classification of these various features of difference occurring in the patents named, and I will answer to the question with that correction that it is possible that an ordinary needle-woman might have invented any of the so-called attachments shown in the several patents, but I don't think to do so she would have exercised the simple mechanical skill which would suggest a single row of stitches to connect two older parts together, but she would have to exercise some inventive or creative capacity, so to speak, which I do not think would be called for in the applying of the single row of stitching. Matters will suggest themselves to people of ordinary capacity, and by study and experiment even people of ordinary and mechanical skill will produce invention.

X Q. 57. The Marr patent shows a woolen shirt, does it not?

A. I don't find that it specifies whether it is a woolen shirt, a cotton shirt, or a linen shirt.

X Q. 58. Have you ever seen a shirt manufactured under this patent by Marr?

A. I have not.

X Q. 59. On what theory do you find in the invention of the Salmon patent a binding?

A. I don't know that I have stated that the Salmon patent contains a binding. My recollection of my testimony is that I stated the edge of the body was folded over and laid on a corresponding part of the bosom, and the two thicknesses thus placed were

1107 connected by two lines of stitches, one of them passing through the fold overlapping the bosom and the bosom beneath, and the other line of stitching outside of this passing through the body and the edges of the bosom beneath. If I called it a binding I made a mistake in my testimony in so naming it.

X Q. 60. (The answer to Q. 4 of the direct testimony of Mr. Hagan is read to him.) Does Mr. Hagan desire to make any further explanation?

A. No; I think I will let it stand as it is. My statement in my former answer, I think, rectifies it.

X Q. 61. In what sense, then, did you use the word binding in answer to Q. 4, which relates to the Salmon invention?

A. As a lapping fold made in the garment in the body to receive the edges of the bosom.

X Q. 62. Will you please make a diagram on an enlarged scale, showing what you understand to be the relations of these parts to the Salmon patent?

A. I have made one, and the same is marked "Hagan's Sketch No. 1 for identification."

X Q. 63. Referring to your answer to question 13, on the subject

of the raw edges in collars and cuffs, is it not customary in both collars and cuffs almost universally to run a line of stitching around the cuff a short distance from the edge after the cuff is turned and within the raw edges of the material, and the same as to collars?

A. It is in many of the collars and pretty nearly all of the cuffs upon the outer edges.

X Q. 64. In the absence of such a line of stitching would not the loose threads of the raw edges have a tendency to displacement, so as to disfigure the article?

A. I think not; my best impression about the border stitching of collars and cuffs is that it has a double purpose, to secure the parts together on the outer edge when being laundered and for orna-
1108 mental appearance. In collars, on the line where the collar joins the band, where the collars become most soiled, and where there are twice the number of edges turned in that there are on the outer edge of the collar and cuff, no second line of stitching is used, or at the bottom of the band where the edges are turned in. Where the collar joins the band and at the bottom of the band the collars become most soiled by use and require the greatest amount of rubbing in washing, and at these points they are not secured by a second line of stitching, and I am not aware that the raw edges there unravel enough to become troublesome.

X Q. 65. I submit for your examination a cuff and ask you to examine it, holding it to the sun-light, and with a view to the discovery of any disfigurement of the same by loose threads or otherwise. I don't refer to the exterior wear.

A. Examining the cuff shown me as a transparency, I find that threads have been detached from the raw edges and are loosely held between the exterior facings of the cuff.

The cuff referred to in the last answer is marked Hagan Cuff No. 1 for identification.

X Q. 66. In your answer to Q. 15 on the subject of laundering you do not include in any opinions you express or as a basis thereof the ordinary methods and processes of domestic laundering?

A. I did not, so far as collars are concerned. The process of laundering shirts does not differ materially from the ordinary domestic methods, as I understand them.

Cross-examination closed.

WILLIAM E. HAGAN.

Examination of witness, William E. Hagan, closed.

Sworn before me April 7, 1886.

[L. S.] LEOPOLD TURK,
Notary Public, N. Y. Co.

1109 NEW YORK, *April 9th*, 1886.

Parties met pursuant to adjournment.

Present: James A. Skilton, counsel for complainants; David Tim, of counsel for defendants.

EDWARD WALLERSTEIN, a witness produced on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Edward Wallerstein; my age is 51 years; my residence is Troy, N. Y.; I am a manufacturer of shirts.

Q. 2. You are one of the defendants in this action, are you not?

A. I am.

Q. 3. Do you know a gentleman by the name of Hiram N. Ford?

A. I do.

Q. 4. When and where did you first become acquainted with him?

A. I was introduced to him at the Mansion House, Troy, N. Y., by Mr. Thomas, I think, in the latter part of September or early part of October, 1885.

Q. 5. Did you then and there have a conversation with him relative to the Cluett bound-bosom shirt, upon which this suit has been instituted?

A. I had.

Q. 6. Please give the conversation as fully as you can now remember the same.

A. He asked me whether we were sued by Cluetts. I said yes. He says, Why don't you combine with Mack, in Albany, and others that will be sued or have been sued already? I told him I did not know anything about that. He said that he had made a shirt long before Cluetts', and that Cluetts had sent for him and offered him
$800 to sell his prior right of having made this shirt, but he
1110 would not sell his right. If the patent was good he intended to have the full benefit out of it. I knew then of the letter he had written to Mack, and he stated that Mack could not get his testimony unless he would pay him, as he considered it his right to use the patent, which he considered his own and, as he used the word, stolen by Cluett. He said that he could break up the patent at once, right in Troy, and I told him he couldn't expect Mr. Mack or any one else to lay down $1,000 without knowing he was really entitled to it as an inventor, and he said he would not testify unless he got the money.

Q. 7. At the time of this conversation this suit had already been commenced and the defendants had appeared. Is that not so?

A. Yes.

Q. 8. Did you or any of the defendants, to your knowledge, at any time, in any manner, wise, or form, offer or promise to Hiram N. Ford or any other witness or person any sum of money or any compensation whatsoever in any form, directly or indirectly, to testify as a witness in this case? I exclude from my question compensation to the expert, W. E. Hagan, and lawful witness fees.

A. No, sir.

Q. 9. Did you at any time have any understanding or agreement with Hiram N. Ford to deposit $1,000 or any other sum in a bank for his benefit or the benefit of any other person to testify as a witness in this case?

A. No.

Q. 10. At the time of this conversation referred to with Hiram N. Ford did you know and see the correspondence between Hiram N. Ford and Mack & Co., and did you know of the existence of two affidavits sworn to by Myron E. Clark, and that these affidavits were in the possession of your counsel?

1111 A. I did.

Question and answer objected to as incompetent.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 11. When you met Mr. Ford at the Mansion House, Troy, N. Y., did you have any conversation with him on the subject of what he had done in the shirt manufacture, and when he had done it?

A. No, sir.

X Q. 12. Did he tell you anything about having made bound-bosom shirts?

A. No, sir.

X Q. 13. Did he claim that he was entitled to a patent on the bound-bosom shirt?

A. He said if there was a patent he was entitled to it. Our whole conversation did not last over ten minutes.

Defendants' counsel offer in evidence papers already marked "Defendants' Exhibits B, C, D, J. A. S., Examiner, Dec. 8, 1885;" also two affidavits of Myron E. Clark, which are marked respectively "Defendants' Exhibit Clark Affidavit 1, Clark Affidavit 2, L. T., N. P., April 9th, 1886."

Cross-examination closed.

CHARLES WALLERSTEIN.

Sworn to before me this 9th day of April, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

1112 ED. ELISHA MACK, a witness produced on behalf of the defendants, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Ed. Elisha Mack; my age is 50 years; my residence is Albany, N. Y.; I am a shirt manufacturer.

Q. 2. Please look at "Defendants' Exhibits A, B, C, and D," being a shirt and three letters, and state how you came into possession of the same.

A. The shirt was got at the store of Myron E. Clark. Mr. Membert, my superintendent, brought it to me. I gave it to the defendants' counsel, Mr. Tim. Exhibit C I received by mail from Hiram N. Ford from Chatham. Exhibit B I received also by mail from Ford from Hudson. Exhibit D, I think, was enclosed in the letter from Hudson. It is also in Ford's handwriting. These letters were received at about the time they were dated.

Q. —. Please look at letter-press copies dated September 4th and 5th, 1885, and explain the meaning of same.

A. The letter of September 4th was written by me personally to Mr. Ford and addressed to him at Chatham. It was in reply to "Exhibit B." The letter of September 5th was written by me personally to Mr. Ford at Chatham in reply to Exhibit C. These letters are letter-press copies of the originals.

The two letters are offered in evidence, marked respectively "Mack Letters Nos. 1 and 2, L. T., N. P., April 9th, 1886."

Q. 4. Did you ever promise to pay Hiram N. Ford any money for testimony to break the Cluett patent?

A. No, sir.

Q. 5. What was the object of this correspondence with Ford, and these apparent negotiations?

1113 A. The object was to ascertain what his knowledge was of the bound-bosom shirt.

Q. 6. Had you been threatened with suit by the Cluetts before you began this investigation into the state of the art?

A. I think not. I think it was some time later.

Q. 7. What actuated you to do this work?

A. Knowing at that time that suit had been commenced against Tim, Wallerstein & Co. and had been threatened against other parties, it is possible that something said by Cluetts' attorney led me to believe that suit might be commenced against my firm.

Direct examination closed.

Cross-examination by Mr. SKILTON:

X Q. 8. Did you ever have any conversation with Mr. Ford on the subject of paying him money for testimony to break the Cluett patent here in suit? And, if yea, please state when and where.

A. I never did.

X Q. 9. When and where did you first meet Mr. Ford?

A. I won't be sure whether at my office or the hotel in Albany where he stops.

X Q. 10. What was the subject of your conversation at that time?

—. It was in relation to this patent of Robert Cluett on a bound-bosom shirt and the suits that had been commenced and threats made, &c., and the efforts made to control the manufacture of bound-bosom shirts.

X Q. 11. Didn't he (Ford) say he could furnish evidence that would break the Cluett patent?

A. I think he did, in substance.

X Q. 12. Did he say on what terms he would furnish it?

A. No, sir; he did not.

1114 X Q. 13. Didn't he say that he would expect to be paid for his testimony?

A. I don't think anything in the conversation referred to testimony.

X Q. 14. What was the conversation, then?

A. I had understood for years that Mr. Ford had made bound-bosom shirts, and I wished to see if that was correct, and if I was correct in that I wanted his affidavit.

X Q. 15. Did he explain to you what he had done in making bound-bosom shirts?

A. I think he did—that is, in substance; that he had made the bound-bosom shirt for five years continuously before the Cluett patent was taken out.

X Q. 16. Did he describe how they were made?

A. He said they were made precisely as the Cluett bound bosom was made without any detailed description.

X Q. 17. Did you tell him what his testimony would be worth?

A. I did not.

X Q. 18. Did you not tell him it would be worth $200?

A. I did not.

X Q. 19. Did he not say to you he was no $200 man?

A. I don't remember any such statement being made by him.

X Q. 20. How many conversations did you have with Mr. Ford on this subject, and where?

A. I think three different times in Albany, and within three days.

X Q. 21. Was there any conversation on the subject of the payment of money by you at either of these interviews for testimony to break the Cluett patent or in relation thereto?

A. No; but there was a conversation in relation to giving money for an affidavit and for a transfer of priority of invention which he claimed.

1115 X Q. 22. State what was said.

A. Mr. Ford said that he was the original inventor of the bound-bosom shirt; that he made the bound-bosom shirt continuously for five years and upwards prior to the date of the Cluett letters patent; that the patent was good for nothing, and he could break the patent; that he didn't propose to give any affidavit unless he was paid for it, and he wouldn't give an affidavit as was wanted unless he was paid $1,000. He stated that the Cluetts had offered him $800 to not testify in any case to what he knew regarding the manufacture of the bound-bosom shirt and his assignment to them of priorty of invention.

X Q. 23. Did you say to him that such an affidavit would be worth in the neighborhood of $200?

A. I did not.

X Q. 24. You did ask him, did you not, how much it was worth to have him help you out in case of a suit on this Cluett patent?

A. I did not.

X Q. 25. How, then, was the question of the $1,000 raised between you?

A. By my asking him for his affidavit of his knowledge and his wanting $1,000 for it.

X Q. 26. Did you say anything to lead him to suppose you would pay the $1,000 or any considerable sum of money for his affidavit or evidence?

A. I didn't give him to understand he would receive anything for his affidavit or evidence.

X Q. 27. Who first told you about the Ford patent?

A. I think my superintendent, Isaac H. Membert, Albany, N. Y., formely of Troy or Lansingburg, N. Y.

X Q. 28. When was this?

A. I should think it was two years ago. It was a matter that first came up when I began binding the bosoms of shirts.

1116 X Q. 29. How long has Mr. Membert been in your employ?

A. I think four years.

X Q. 30. Is this Mr. Membert a shirt patentee; — so, what is the date of his patent?

A. I think September 2d, 1879.

X Q. 31. Is it a patent under which you have a license?

A. We are manufacturing some shirts under that patent.

X Q. 32. That patent shows a binding in connection with a bosom and shirt body, does it not?

A. It was a binding in connection with the body of the shirt and the shirt reinforced.

ED. ELISHA MACK.

Sworn to before me this 9th day of April, 1886.

LEOPOLD TURK,
Notary Public, N. Y. Co.

[SEAL.]

NEW YORK, *April 10th*, 1886.

Met pursuant to adjournment.
Same parties present.

In further cross-examination the witness, V. H. ROTHSCHILD, said as follows:

X Q. 47. Referring to the "binding cut on the bias" mentioned in your answer to Q. 6 of the "pongee shirt," is it not possible that you are mistaken as to the cut binding, and may it not have been a regular braid or binding with selvedge edges?

A. I don't think I ought to go over this ground again. I answered this question when I was here before.

X Q. 48. Please fix the date when the bound-bosom open-back shirts referred to in your answers to questions 8 to 11 were made.

1117 A. I mentioned that when I was here last, Mr. Skilton.

X Q. 49. In answer to Q. 9 you said, "It may have been as late as 1865." What I desire is to have you fix the date accurately.

A. I can't give you the date any better to-day than I did then.

X Q. 50. In answer to Q. 11 you said that Mr. Pipo had "peculiar machinery to turn that out very suitable for bias binding." Please describe or state what that machinery was.

A. I have never examined the machinery to describe it as fully as I would like to.

X Q. 51. Did your manufacture of these bound-bosom shirts continue later than 1870?

A. My superintendent, Mr. Morchardt, could tell you about that more than I could. After that I did not attend to the manufacture as much as I did prior to 1870.

X Q. 52. How long did it continue? I mean the manufacture of the white cotton and linen open-back bound-bosom shirts.

A. I went over that ground at our previous interview, and I don't want to state it again.

X Q. 53. I submit a copy of a letter addressed to Messrs. Rothschild, Bro. & Gutman, Nos. 46 and 48 Leonard street, New York, and dated August 6th, 1885, over the name of James A. Skilton. Did you ever receive such a letter and a copy of the patent referred to therein at or about that date?

A. During that time Mr. Gutman either applied or became the patentee of a double-bosom shirt; that you know a good deal about, Mr. Skilton, you recollect; and Mr. Gutman did all that in his own interest, and I had nothing to do with that patent. He corresponded probably with various ones that had something similar to his patent, and what he done I don't know. I don't recollect receiving the letter or seeing the patent or making any reply, and I know
1118 that I did not personally make any reply to that letter, and I don't know anything about the whole affair.

X Q. 54. Please examine the Defendants' Exhibit A, the Ford shirt, and say whether the open-back bound-bosom shirts referred to in your answers to questions 8 to 12, inclusive, resembled or differed; and if they differed therefrom, please explain all the differences minutely and fully.

A. I believe that that pongee shirt was sewed like this; also the shirts that Pipo and Stockmark made for me were made exactly like this, with bias binding.

X Q. 55. Please explain any difference between the "Exhibit A" and the open-back bound-bosom shirts you made prior to 1870. State what they are, if any.

A. We have made some bound that were—well, I have explained it to you the last time that I have made these sort of binding open to the right, and stitched the bosom all onto the shirt simply with one row of stitching on the inside of the binding, and have made them where the bosom was sewed on all around to the shirt in the same manner.

X Q. 56. How many lines of stitching were used in securing the binding to the bosom in the shirts last referred to?

A. That part I could not tell positively.

X Q. 57. How many lines of stitching secured the bound bosom to the shirt?

A. That part I could not tell you, because I did not make them

myself. These bosoms were made for us outside of our factory—these bosoms.

X Q. 58. Can you mention any other differences between the shirts you made and the Defendants' Exhibit A?

A. No, sir.

X Q. 59. Can you explain just how the raw edges of the bosom layers were arranged underneath the binding in the open-
1119 back bound-bosom shirts made by you? If yea, please make a diagram of the same.

A. No; Mr. Borchardt can.

X Q. 60. Please examine the Borchardt shirts, Defendants' Exhibit Y, and state whether the shirts made by you prior to 1874 resembled that shirt so far as the bosom, shirt, and binding are concerned.

A. I have made some of these and the others I have mentioned to you. This is a different thing.

VICTOR HENRY ROTHSCHILD.

Sworn before me April 10, 1886.

LEOPOLD TURK,
[L. S.] *Notary Public, N. Y. Co.*

Defendants close their testimony.

1120 DEFENDANTS' EXHIBITS.

Petition.

To the Commissioner of Patents:

Your petitioner, a resident of the city of Troy and State of New York, prays that letters patent may be granted to himself for the invention set forth in the annexed specification, vesting in him and his legal representatives the exclusive right of the same upon the terms and conditions expressed in the act of Congress in that case made and provided.

And further prays that you will recognize James A. Skilton, of New York (lock box 8, Washington, D. C.), as his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

ROB'T CLUETT,
Troy, N. Y.

Specification.

To all whom it may concern:

Be it known that I, Robert Cluett, of the city of Troy, in the county of Rensselaer and State of New York, have invented certain new and useful improvements in shirt bosoms; and I do hereby declare that the following is a full, clear, and exact description thereof, which will enable others skilled in the art to which it pertains to make and use the same, reference being had to the accompanying

drawings and to the letters of reference marked thereon, which form a part of this specification.

P'r Oct. 8, '74. 1121 The object of my invention is, first, to avoid the folding in of the edges of the bosom and the raw edges and loose threads thereof, which disfigure the bosom when so folded in; second, to stay the bosom, rendering it firmer in itself and less likely to rumple or break; third, to avoid wrinkling of the bosom by the unevenness or fulling up of any one of the layers composing the bosom in any part thereof.

Insert A, p'r Oct. 8, '74. P'r Oct. 8, '74. Its construction consists in preparing and fixing the two or more layers in place smoothly in relation to each other and then binding the edge with a folded strip of cloth like the bosom front, cut bias (or diagonally) or straight from the piece, so as to turn the curves of the bosom without tendency to gather on one side and so as to suit round, square, or any other shaped bosom, this binding extending entirely around the bosom (except at the neck and yoke) and holding the parts firmly in place by a line of stitches before the bosom is inserted in or placed on and attached to the body of the shirt. Where the bosom is inserted in the shirt a back layer of the bosom is left outside of the binding and free. As to the rest and where it is placed on and attached to the shirt body, the seam is made through all, the binding on both sides and the layers of cloth between, as well as the shirt body.

Insert B, Oct. 8, '74.

The drawing contains fourteen figures.

Figure 1 is a front view of the upper part of a shirt in which the bosom proper is secured to and over the shirt-body front, as illustrated in the following figures, to and including figure 7.

Figure 2 is a sectional view cut on the line U U.

Figure 3 is a sectional view cut on the line V V.

Figure 4 is a plan or pattern view of the shirt body shown in figure 1.

1122 Figure 5 is a front view of the bosom before being secured to the body, as in figure 1.

Figure 6 is a sectional view cut on the line U U, figure 5.

Figure 7 the same on line V V, figure 5.

Figure 8 is a front view in which the bosom proper is inserted in the shirt-body front, as illustrated in the remaining figures, to figure 14, inclusive.

Figure 9 is a sectional view cut on the line X X, figure 8.

Figure 10 the same on line Y Y, do.

Figure 11 is a plan or pattern view of the shirt body cut out for the insertion of the bosom.

Figure 12 is a front view of the bosom for insertion.

Figure 13 is a sectional view on the line X X, figure 12.

Figure 14 the same on line L L, do.

Figures 5, 6, and 7 show one line of stitches passing through the bias or straight cut binding B and bosom layers B and L. In these,

as in all the figures, S indicates the location of a stitch and an inside line of stitching.

This bosom is composed of two layers, and is secured on the shirt body F, as shown in figures 1, 2, and 3, by the outside line of stitches O.

Figures 12, 13, and 14 show one line of stitches S, passing through the bias or straight cut binding B and bosom layers B and L, the back layer B not being stitched to the rest by such line of stitches.

Figures 8, 9, 10, and 11 show how this form of bosom is inserted on the shirt body F—first, by a line of stitching attaching the back layer B to the shirt body F at the bend shown on the under side of figure 10; and, second, by the outside line of stitches O, shown in figures 8, 9, and 10.

1123 The bosoms so made have each layer evenly laid over the other and so held in place during the final process of insertion or attachment, as the case may be, and they remain equally even and smooth after the shirt and bosom are complete.

Insert D, Oct. 8, '74.

I claim as my invention:

Erase & insert "C," Oct. 8, '74.

1. The shirt bosom S, composed of two or more thicknesses of cloth, B L, *braid* on the outer edge with the bias-cut binding B and secured to the shirt front F by the line of stitching O.

P'r Oct. 8, '74.

The shirt bosom S, composed of two or more thicknesses of cloth B L, bound on the outer edge with the binding B and secured to the shirt front F by the line of stitches O.

In testimony that I claim the foregoing as my own invention I affix my signature in presence of two witnesses.

ROB'T CLUETT.

Witnesses:

R. C. BULL.
F. R. WEEKS.

Oath.

STATE OF NEW YORK, *County of Rensselaer,* } ss:

On the 6th day of August, 1874, before me, the subscriber, a notary public, personally appeared the within-named Robert Cluett, and made solemn oath that he verily believes himself to be the original and first inventor of the within-described shirt bosom, and

1124 that he does not know or believe the same was ever before known or used, and that he is a citizen of the United States.

[L. s.]

G. H. SAGENDORF,
Notary Public.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *September 24th*, 1874.

Examiner's room No. 5.

Robert Cluett, care Jas. A. Skilton, present:

Your application for a patent for an improvement in shirt bosoms, filed Aug. 10, 1874, has been examined and found wanting in patentable invention. It is but a common expedient to bind any part of a garment, and it is not new to apply bosoms to the shirt body instead of inserting them therein. See patents to A. D. Marr, Jan. 14, 1873, No. 134,909, and A. Conger, Jan. 20, 1874, No. 146,656, and forfeited application of Moses Palmer, Jr., filed Aug. 3, 1871; class, apparel; subdiv., shirts and bosoms. See models also of above cases.

A patent is therefore refused.

H. BLANDY, *3d Ass't.*
WM. BURKE, *Ex.*

In the matter of the application of Robert Cluett, filed August 10, 1874, asking letters patent for an invention in shirt bosoms (bound):

The official letter of September 24th, 1874, has been received.

The following *amendments* are hereby made in the specification:

1125 1. *Insert* after the words "part thereof," at the end of the clause stating the object of the invention, as follows:

A. Oct. 8, '74. "Each and all of these three features having reference to the preparatory stages of manufacture, but to be completed in the bosom as attached to the shirt."

2. Erase the letter "*S*" from the word "objects" and substitute "*is*" for "*are*" in line 1 of the object clause.

3. After the word "It," beginning the next clause, add: "*S construction,*" and after the word "shirt," at the end of same sentence, insert:

"B." "And finally attaching the bosom so prepared to the shirt body in the manner hereinafter shown. The invention consists in the shirt bosom or shirt and bosom so constructed, and not in the bosom alone."

4. *Strike out* the *1st clause of claim and substitute therefor:*

"C." 1. "In combination with a shirt body, a shirt-bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding."

5. From claim 2 *strike out* the words "*bias cut*" (previously amended).

1126 6. Before the words "I claim," last page, insert:

"D." "The thicknesses of cloth in the bosom may be varied and either increased or reduced."

Washington, D. C., Oct. 8th, 1874.

ROBERT CLUETT,
By JAMES A. SKILTON, *Att'y.*

NEW YORK, *Nov.* 11, '74.

Hon. J. M. Thacher, Commissioner of Patents.

SIR: I transmit herewith $20 as the final fee in the case of Robert Cluett, shirt bosoms (bound), passed for issue, with the request that the letters patent be issued in the next weekly issue.

Very respectfully, JAMES A. SKILTON,
No. 76 *Liberty St.*

"A." 1874. Div. 5. 899.
Burke. 140.

No. 156,880.
Robert Cluett,
of Troy,
County of Rensselaer,
State of New York.
Shirts bosoms.
Rec'd Aug't 10, 1874.
Petition, " " "
Affidavit, " " "
Specification, " " "
1. Drawing, " " "
Model, " " "
Cert. dep. —.
1. Cash, $15, Aug. 10, 1874.
1. Add'l fee cert., $20, Nov. 12th, 1874.
" " cash.
Examined Oct. 10, '74. Wm. Burke.
1127 2. Issue, Oct. 10, '74. Knight.
3. Patented Nov. 17, 1874.
Recorded vol. —, page —.
Circular, Oct. 12, 1874.
James A. Skilton, lock box 8, present.

1874.

Contents.

Application, 1 paper.
Rej., Sept. 24, 1874.
Am't, Oct. 8, 1874.
2. Apparel.
(38.) Shirts and bosoms.

Title.

Ex'd: M. McK.; J. A. W.
Improvements in shirts.

Portion of Nicoll's English patent 1594, of 1864, printed pursuant to the following consent:

Louis C. Raegener, Esq.

DEAR SIR: I hereby consent to the printing of the particular part of the Nicoll English patent you desire to use in evidence on behalf of defendants and to your omitting to print the other portions of that patent. In connection with this consent my understanding is that the file and contents of the patent in suit will be printed by you complete, as also the Clark-McClellan affidavits—two of them—and the letters A, B, C, D, comprising the Ford-Mack correspondence. Of course you will furnish me with printed copies of these exhibits to go with the printed copies of the depositions already furnished me.

Yours truly,
(Signed) JAMES A. SKILTON.

1128 "Another part of my invention consists of a novel mode of finishing the edges of shirt collars and cuffs or wristbands and parts of garments and other articles which are suited to receive binding. In finishing or binding edges according to my improved method I first stitch a narrow slip of colored or plain fabric onto the edge of the article, bringing the edge of the article and the edge of the strip or binding even with each other or nearly so. The opposite edge of the strip or binding is turned over in the form of a half hem, and when the strip has been thus attached I fold or turn back the strip from the line of stitching already made — bring it over the edge of the article. I then introduce a second line of stitches through the underneath portion of the binding which has just been turned under, taking care that these stitches be as close as possible to the upper edge of the binding without catching it. The apparatus which I prefer to adopt for partly accomplishing the novel mode of binding or finishing above described, and which apparatus may be used either in the compound sewing machinery hereinbefore referred to or in any ordinary single sewing-machine, consists of a curved guide for laying or turning over the edge of the strip or binding as it passes along such guide, forming one side of a channel, which gradually diminishes in width towards the forward end thereof. Inside this channel there is fitted a pressing plate or flat tongue of thin metal, which keeps the strip or binding flat whilst the edge thereof is being turned over by the combined action of the curved guide above referred to and the forward travel of the material as it is being stitched. The strip or binding is supplied from a reel direct to the finisher or binder, and the whole should be so adjusted or placed in the sewing-machine that the flat or unturned edge of the binding shall coincide with the edge of the article to be

bound or finished. The operation is completed by turning
1129 the binding over the edge of the article by hand and then introducing the second line of stitches."

Clark Affidavit 1, *L. T., N. P., Apr. 9th*, 1886.

STATE OF NEW YORK, } ss:
Columbia County, }

MYRON E. CLARK, being duly sworn, says: I am 35 years of age, and have always lived in Chatham, in said county. In 1868 I was in the employ of H. M. Ford, a dealer in gents' furnishing goods and hats and manufacturer of shirts to order. From that time until the present I have continued in the same business in Chatham as an employee of said Ford and of his brother until 1880, and since then as a principal and not as an employee. Since 1869, and continuously since that time, I have been engaged as employee and maker of shirt bosoms exactly like the descriptions contained in the following printed slip and paragraphs 1 and 2 thereof:

Equally even and smooth after the shirt and bosom are complete.

The thicknesses of cloth in the bosom may be varied, and either increased or reduced.

I claim as my invention—

1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding, and attached to the shirt body by a separate line of stitching through such binding.

2. The shirt-bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B, and secured to the shirt front F by the line of stitching O.

1130 In testimony that I claim the foregoing as my own invention I affix my signature in presence of two witnesses.

ROB'T CLUETT.

Witnesses:
R. C. BULL.
F. B. WEEKS.

And I never knew or saw or heard of a bound-bosom shirt until the time we made them, in 1869 and 1870, and believe they were these first manufactured, and I well recollect the experimental trials made in order to attain success in the manufacture thereof, which was attained and has been continued until now.

MYRON E. CLARK.

Sworn to before me this 1st day of September, 1885.

H. W. McCLELLAN,
Co. Judge of Col. Co., N. Y.

Clark Affidavit 2, L. T., N. P, April 9th, 1886.

STATE OF NEW YORK, }
Columbia County, } *ss:*

On this 4th day of September, 1885, before me, A. C. Daley, a notary public in and for said county, personally came Myron E. Clark, of the village and town of Chatham, in said county, and, being by me duly sworn, deposes and says: I reside in the village and town of Chatham, Columbia county, New York, and was in the employ of one H. M, Ford, who manufactured shirts in said
1131 village, from the year 1870 to the year 1880. The shirt marked "J. H. Mambert" on tab and marked on back piece "H. M. Ford, shirt maker, Chatham village, N. Y.," and referred to herein as "Exhibit A, Sept. 4th, 1885, M. E. Clark," was cut by said H. M. Ford, and the bosom of said shirt was made and put in said shirt by the said Clark, and the binding of bosom of said shirt is in all essential points the same as made by me while in the employ of said Ford in each and every year from the year 1870, inclusive, to the year 1880, and that numbers of said shirts made as hereinbefore described were manufactured and sold in each of said years, all through the said period from 1870 to 1884, by said Ford at said village and town.

MYRON E. CLARK.

Sworn to and subscribed before me this 4th day of September, 1885.

[SEAL.] W. C. DALEY,
Notary Public.

DEFENDANTS' EXHIBIT B. J. A. S., Ex. Dec. 8th, 1885.

HUDSON, N. Y., *Sept. 3d*, 1885.

Messrs. Mack & Co.

GENTS: I enclose you article of agreement which I am willing to sign upon the stipulation therein contained being complied with. I find that I am able to obtain from other parties the same specified in article and without any further trouble to me, but as I signed to take that sum from you I am ready to fulfill. I find should any suit be commenced that it could be prolonged for an indefinite period and finally a compromise be made by the parties in litigation,
1132 which would annul contract, and I therefore the loser; so if you desire to do as article of agreement dictates you can come to Chatham Saturday morning prepared with the money, and all affidavits, &c., with my old books, can be pushed over to you, and shall ever be ready to fulfil my part of the contract upon a 10 days' notice.

F.

P. S.—You had better telegraph me to Chatham Friday afternoon if you come; otherwise I shall go to New York on the 6 a. m. train Saturday morning.

DEF'D'TS' EXHIBIT C. J. A. S., Ex. Dec. 8, 1885.

Myron E. Clark, "the" hatter and leading men's furnisher.

CHATHAM, N. Y., *4th Sept.*, 1885.

Mess. Mack & Co., 63 and 65 Hudson Ave., Albany, N. Y.:

Yours rec'd on my arrival home to-night and contents noted. I would say if you wish to break the patent before mentioned in your correspondence you will appear here on train that arrives here 10.55 a. m., Saturday, Sept. 15th, and pay over to my wife the one thousand dollars mentioned in my article of agreement, as dictated, or you will never break the patent while I live.

I do not intend this as at all threatening. I mean what I
1133 say. I don't like the manner of your appearing here in my absence and trumping up testimony through misrepresentations.

Yours, F.

DEF'D'TS' EXHIBIT D. J. A. S., Ex. Dec. 8, 1885.

For the sum of one thousand dollars to my wife, Helen A. Ford, in hand paid I do hereby agree to give Mess. Mack & Co. or their attorneys, as they may request, all the facts in connection with my formerly manufacturing a bound-bosom shirt similar to shirt as specified and claimed in a patent issued to Geo. B. Cluett Nov. 17th, 1874, and to give an affidavit in full, and to appear in court at any time, upon payment of lawful witness fees, when called and give testimony in full of such facts and to furnish affidavits or testimony, as may be desired, of other parties, so far as I am able, to substantiate my own.

1134 DEF'TS' EXHIBIT MACK LETTER 1. April 9th, 1886. L. T., N. P.

SEPT. 4TH, '5.

H. M. Ford, Esqr., Chatham.

D'R SIR: Your letter from Hudson, enclosing the agreement you offer to sign on condition of one thousand dollars being first paid to your wife, is received, and while the conditions are reasonable enough they still place us to the disadvantage of personally assuming the outlay of one thousand dollars, in that your limit of time does not enable us to get the desired co-operation of some others.

We should want time extended to "by or before the 20th Sept."

Please give us your reply, stating that you will hold the proposition open till the 20th.

We should require certainly all of next week to reach the parties we desire to join us, as some of them are on a vacation and must be called at some loss of time.

Awaiting your reply, we are, yours very truly,

MACK & CO.

1135 DEF'TS' EXHIBIT MACK LETTER 2. April 9th, 1886. L. T., N. P.

SEPT. 5, '5.

H. M. Ford, Esqr., Chatham.

DEAR SIR: We are in receipt of yours from Chatham of the 4th, demanding that the one thousand dollars consideration mentioned in your agreement mailed to us from Hudson the 3d inst. for the evidence and testimony which you claim to have at your command that will establish the invalidity of the patent issued to Geo. B. Cluett November 17, 1874, be paid over to your wife on the arrival of the 10.55 a. m. train at Chatham to-day.

For reasons given in ours of the 4th, addressed to you to Chatham, it is impossible for us to comply with your demand, and if you will not grant us the extended time as asked for in that letter we are compelled to let the matter stand.

Yours very truly, MACK & CO.

1136 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Tuesday, the twelfth day of April, in the year of our Lord one thousand eight hundred and eighty-seven.

Present: The Honorable Alfred C. Coxe, judge.

GEORGE B. CLUETT & *al.* *vs.* HORACE B. CLAFLIN & *al.* } Equity Calendar. April Term, 1887.

SAME *vs.* EDWARD E. MACK & *al.* }

These causes coming on this day for final hearing together upon pleadings and proofs—

Mr. James C. Skilton is heard in behalf of complainants.

Mr. Louis C. Raegener is heard in behalf of defendants.

(Further argument adjourned to 13th inst.)

1137 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Wednesday, the thirteenth day of April, in the year of our Lord one thousand eight hundred and eighty-seven.

Present: The Honorable Alfred C. Coxe, judge.

GEORGE B. CLUETT & *al.*
vs.
HORACE B. CLAFLIN & *al.*

SAME
vs.
EDWARD E. MACK & *al.*

The argument in the above causes being resumed this day, pursuant to adjournment—

Mr. Raegener concludes his argument in behalf of defendants.

Mr. Skilton commences his closing argument in behalf of complainants.

(Further argument adjourned to 14th inst.)

1138 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Thursday, the fourteenth day of April, in the year of our Lord one thousand eight hundred and eighty-seven.

Present: The Honorable Alfred C. Coxe, judge.

GEORGE B. CLUETT & *al.*
vs.
HORACE B. CLAFLIN & *al.*

SAME
vs.
EEWARD E. MACK & *al.*

Argument in these causes being resumed this day, pursuant to adjournment, Mr. Skilton continues closing argument in behalf of complainants.

(Further argument adjourned to 15th inst.)

1139 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Friday, the fifteenth day of April, in the year of our Lord one thousand eight hundred and eighty-seven.

Present: The Honorable Alfred C. Coxe, judge.

GEORGE B. CLUETT & *al.*
vs.
HORACE B. CLAFLIN & *al.*

SAME
vs.
EDWARD E. MACK & *al.*

Argument in the above causes being resumed this day, pursuant to adjournment, Mr. Skilton concludes his argument in behalf of complainants.

C. A. V.

1140 United States Circuit Court, Southern District of New York.

GEORGE B. CLUETT *et al.*
vs.
HORACE B. CLAFLIN *et al.* } In Equity.

James A. Skilton for the complainants; Louis C. Raegener and David Tim for the defendants.

COXE, *J.:*

The complainants are owners of letters patent No. 156,880, granted to Robert Cluett November 17, 1874, for an improvement in shirt bosoms. The object of the patentee was, first, to avoid the disfigurement of the bosom which follows from folding in the raw edges and loose threads thereof; second, to stay the bosom and render it less liable to rumple; and, third, to prevent the wrinkling or fulling up of any one of the layers of which it is composed. The shirt is constructed by placing two or more layers of cloth composing
1141 the bosom smoothly one upon the other; their edges are then bound with a folded strip of similar material which, except at the neck and yoke, extends entirely around the bosom and is attached thereto by a line of stitches. The bosom is then placed upon the shirt body and fastened to it by a second line of stitches through the binding. In other and, perhaps, plainer words, the alleged invention consists in binding a shirt bosom and afterwards sewing it through the binding to the body of the shirt.

A shirt so made was first produced by the patentee in the spring or early summer of 1874. The claims are as follows:

"1. In combination with a shirt body, a shirt bosom bound on the outer edge with a folded and stitched binding and attached to the shirt body by a separate line of stitching through such binding.

"2. The shirt bosom S, composed of two or more thicknesses of cloth, B L, bound on the outer edge with the binding B
1142 and secured to the shirt front F by the line of stitching O."

The defendants admit that some of the shirts dealt in by them contain the patented features, but they insist that the complainants' shirt was old in 1874, and, if not completely anticipated, the state of the art was such that the patent must be held void for lack of invention.

A voluminous mass of testimony has been returned upon the question of prior use. The greater part, however, may be laid aside when it is remembered that this defense must be established by proof as explicit and convincing as that required to convict a person charged with crime—proof which preponderates the complainants' testimony not only, but which satisfies the mind beyond a reasonable doubt. The evidence upon this question is full of contradictions and improbabilities and furnishes another illustration of the difficulty of arriving at the truth from human testimony.
1143 Although corruption, prejudice, and self-interest may be wholly absent, it is well-nigh impossible for a witness, no matter how intelligent he may be or how retentive his memory, to recall the details of ordinary transactions occurring twelve or fifteen

years before. Even the most intelligent and incorruptible witnesses are here proved to have been mistaken in important particulars, and others, not so intelligent or virtuous, are contradicted and discredited. It is thought that the testimony falls below the standard required by the rule referred to unless it be the proof of prior use at Chatham, New York. Two witnesses who made bound-bosom shirts similar to the patented shirt were called, and, at great length and with careful attention to details, told the manner of construction and the experiments which led to the adoption of that style of shirt.

But the character of one of these witnesses, Ford, was compromised by an attempt upon his part to sell the knowledge he
1144 possessed for a large amount of money, and the court should hesitate to accept his story were it not corroborated by the testimony of the county judge of Columbia county, whose character is conceded by all to be entirely beyond reproach. Judge McClellan positively and with reiteration testifies that he bought bound-bosom shirts prior to 1870, and gives facts and circumstances which render it quite improbable that he is in the wrong. To be sure, he is shown to be mistaken as to minor details in a few instances, but upon all material questions his testimony remains entirely unshaken, and, when taken in connection with the evidence of Ford and Clark, it can hardly be said that there is a reasonable doubt remaining regarding the Chatham anticipation.

But it is thought that the patent must be declared invalid for want of patentable novelty, and the court prefers to rest the decision upon this ground.

1145 It will be seen upon an examination of the claim that they do not cover a bosom of any designated color, size, or shape; for a binding of any particular variety, or the machinery or processes employed in the construction of the shirt; but they are for the combination of a shirt bosom bound on the outer edge with a folded and stitched binding attached to the shirt body by a separate line of stitching through the binding. The patent covers nothing more. To attribute to the alleged invention all the improvements and increased facilities which modern machinery and ingenuity have introduced into the shirt traffic is hardly warranted by the proofs.

At the time the patentee produced the combination in question, namely, in the spring of 1874, the art of binding textile fabrics for ornamentation, strength, and preservation was very old.
1146 Shirts and shirt bosoms and bosoms with binding around their outer edges were not new. Woolen shirts with bosoms bound and attached on one side alone and on both sides to the shirt body by a line of stitches, either through or just inside the binding, and laundered shirts with ruffled or puffed bound bosoms were well known.

In January, 1873, a patent for improvements in shirts was granted to Augustus D. Marr, the specification of which contains this language: "The edges of each fly and the bosom front may be bound with binding." In 1869 or 1870 the complainants themselves made and

sold a bound bosom or dickey, detached from the shirt and intended to hang by means of a tab to the collar button, and to be worn or not as occasion required. Had a mother, in 1870, whose son exhibited an aversion to wearing the bound dickey, seen fit to sew it to his shirt by a line of stitches through the binding she
1147 would have anticipated the Cluett patent. Had she done this in 1875 she would have infringed.

The question, therefore, is, was it invention for the patentee, in view of all that was known in the art in 1874, to sew the bound bosom made by him to the shirt, upon which it hung, by a line of stitches through the binding? There was no invention in locating the stitches at that point, for it would almost require an exercise of the inventive faculties to find any other place to put them. Two or more pieces of cloth bound on the edges are laid upon another piece and held in proper position by means of a button. A party who is aware that similar fabrics have been held in position by sewing instead of buttoning substitutes the former for the latter mode. Clearly this is not invention. Take another illus-
1148 tration. Let us assume that two intelligent workmen were employed in the complainants' manufactory in 1872, the one wearing the woolen shirt with shield-shaped bound bosom described by the defendants' witnesses, the other the bound dickey made by the complainants. The tab which holds the latter to the collar button breaks or becomes inoperative and its wearer, after examining the woolen shirt of his companion, sews the dickey to the body of his shirt by a line of stitches through the binding. Does he by this act become an inventor? Is the operation one which taxes the brain or calls into being "that intuitive faculty of the mind which the Supreme Court regards as necessary to patentable novelty"? (Hollister *vs.* Benedict Manufacturing Company, 113 U. S., 59.)

If so, it might almost be said that he who by means of a row of tacks through its binding attaches to the wall a map which previously had been suspended in the same position by a cord is
1149 entitled to rank as an inventor. It is entirely clear that under the decisions of the Supreme Court this action cannot be maintained.

The record discloses less invention than was shown in any of the following cases:

Pennsylvania Railroad Co. *vs.* Locomotive Truck Company, 110 U. S., 490; Stimpson *v.* Woodman, 10 Wallace, 117; Stephenson *vs.* Brooklyn Railway Company, 114 U. S., 149; Yale Lock Company *vs.* Greenleaf, 117 U. S., 554; Thatcher Heating Company *v.* Burtis, 39 O. G., 587; Estey *vs.* Burdett, 109 U. S., 633; Clark Pomace Holder Company *vs.* Ferguson, 119 U. S., 335; Phillips *v.* Detroit, 111 U. S., 604; Gardner *vs.* Herz, 118 U. S., 180.

The bill must be dismissed with costs.

1150 GEORGE B. CLUETT *et al.*
vs.
ED. ELISHA MACK *et al.*

COXE, *J.*:

A decree dismissing the bill with costs should be entered in this cause upon the authority of Cluett *vs.* Claflin, *supra.*

(Endorsed:) United States circuit court, southern district of New York. George B. Cluett *et al. vs.* Horace B. Claflin *et al.* Decision. Coxe, J. U. S. circuit court. Filed June 7, 1887. Timothy Griffith, clerk.

1151 At a stated term of the circuit court of the United States of America in and for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on the 9th day of June, one thousand eight hundred and eighty-seven.

Present: Hon. Alfred C. Coxe, judge.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT, Complainants,
against
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein, Defendants.
In Equity. Final Decree.

1152 This cause having come regularly on for final hearing on the bill of complainants and the answer and replication and on the proofs taken on the part of the complainants and of the defendants in the presence of James A. Skilton, Esq., of counsel for complainants, and Louis C. Raegener, Esq., of counsel for defendants, and said James A. Skilton, Esq., having been heard on behalf of the complainants and said Louis C. Raegener, Esq., having been heard on behalf of the defendants:

Now, therefore, upon consideration thereof and due deliberation had and upon motion of David Tim, solicitor for defendants, it is ordered, adjudged, and decreed that said bill of complaint be, and the same hereby is, dismissed with costs to the defendants, to be taxed by the clerk of this court.

(Signed) ALFRED C. COXE.

(Endorsed:) U. S. circuit court, southern district of N. Y. George B. Cluett *et al.*, complainants, against Horace B. Claflin *et als.*,
1153 defendants. Final decree. David Tim, sol'r for def'ts, 25 Chambers street, N. Y. city.

(File-mark:) U. S. circuit court. Filed June 10, Timothy Griffith, clerk.

1154 Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT & *als.*
vs.
HORACE B. CLAFLIN & *als.*
} In Equity.

It is hereby stipulated that the foregoing may constitute the record to be sent by the clerk of this court to the Supreme Court of the United States on the appeal to said Supreme Court in the above-entitled cause without prejudice to any motion hereafter to be made to correct the same, if any errors shall be found to be contained therein; and it is further stipulated that the exhibits may be retained in the custody of the clerk of this court until the hearing on appeal in the Supreme Court.

N. Y., Oct., 1887.

(Signed) ——— ———.
——— ———.

(Endorsed:) —.

1155 Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Herman, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.
} In Equity. No. 3542.

To the honorable Supreme Court of the United States:

The petition of George D. Cluett, J. W. Alfred Cluett, and Robert Cluett, complainants, respectfully showeth—

That on or about the 10th day of June, 1885, the above-named complainants filed their bill in the circuit court of the United States for the southern district of New York against the above-
1156 named defendants; that it was alleged in said bill that the complainants were the owners of certain letters patent for new and useful improvements in shirts therein designated; that the defendants had infringed the said letters patent, and the bill prayed for an injunction enjoining the defendants from infringing the said patented invention and an account of the gains, profits, and damages arising from said infringement.

That on or about the 10th day of August, 1885, the defendants filed an answer herein denying that they had infringed said letters patent, alleging that the same were invalid, and in other respects traversing the allegations of the said bill; that proofs on behalf of complainants and defendants were duly taken and the cause was heard before his honor Judge Coxe, at the February term, 1887, of

said court, and on the 10th day of June, 1887, a final decree was entered herein, whereby it was adjudged and decreed that the said bill be dismissed and that the defendants have judgement for
1157 their costs, and that judgment was duly entered in favor of defendants in the sum of seven hundred and forty-five dollars and sixty-one cents on the 21st day of June, 1887, and the same has not been satisfied.

Wherefore these complainants appeal from the whole of said decree of said circuit court and respectfully pray that the said decree, the pleadings, proofs, and other proceedings, or such part and so much thereof as may be agreed upon by the solicitors and counsel for the respective parties hereto, may be sent to the Supreme Court of the United States, and that said Supreme Court will proceed to hear the said cause anew, and that the decree of the circuit court and every part thereof may be reversed and such decree made as to said Supreme Court shall seem just, and that pending said decree the issue of execution herein may be stayed.

Dated July 1, 1887.

(S'g'd) JAMES A. SKILTON,
Solicitor and of Counsel for Complainants and Appellants.

Allowed by—
(S'g'd) ADDISON BROWN.

1158 Supreme Court of the United States.

Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.
In Equity. No. 3542.

Know all men by these presents that we, Henry G. Fisk and George F. Miller, both of the city, county, and State of New York, are held and firmly bound unto the above-named Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Ed-
1159 ward Wallerstein in the sum of three thousand dollars ($3,000); for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the first day of July, 1887.

The condition of this obligation is such that whereas the said Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn,

Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein have obtained a decree in the circuit court of the United States for the southern district of New York dismissing the bill of complaint of the said George B. Cluett, J. W. Alfred Cluett, and Robert Cluett and for costs, which said decree was entered on the 10th day of June, 1887; and whereas the said George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, in order to obtain reversal of the same, have obtained the allowance of a petition of appeal to the Supreme Court of the United States:

1160 Now, therefore, if the above-named George B. Cluett, J. W. Alfred Cluett, and Robert Cluett shall prosecute their said appeal to effect and shall answer the amount of the judgment obtained by the defendants herein, with interest, and all damages and costs, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

(S'g'd) HENRY G. FISK. [L. S.]
GEORGE F. MILLER. [L. S.]

Executed and delivered in the presence of—
(S'g'd) EDWARD S. BERRALL.

UNITED STATES OF AMERICA, *Southern District of New York,* } ss:

Henry G. Fisk and George F. Miller, the sureties above named, being each severally duly sworn, does each for himself depose and say that each of them is a resident of the State of New York, and each is a householder, and is worth the sum of six thousand dollars ($6,000) over and above all debts, dues, and demands and incumbrances whatever, besides property exempt by law from execution.

1161 (S'g'd) HENRY G. FISK.
GEORGE F. MILLER.

Sworn to before me this first day of July, 1887.
(S'g'd) EDWARD S. BERRALL,
[NOTARIAL SEAL.] *Notary Public, Kings Co.*

Cert. filed in N. Y. Co.

UNITED STATES OF AMERICA, *Southern District of New York,* } ss:

I hereby certify that on this first day of July, 1887, before me personally came Henry G. Fisk and George F. Miller, each of whom is personally known and is known to me to be one of the individuals described in and who executed the within bond, and they each severally acknowledged that they executed the same.

(S'g'd) EDWARD S. BERRALL.
Notary Public, Kings Co.

Cert. filed in N. Y. Co.

Approved July 1, 1887.

(S'g'd) ADDISON BROWN,
U. S. Dist. Judge.

UNITED STATES OF AMERICA, *Southern District of New York,* } *ss:*

1162 To Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein, Greeting:

Whereas George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, in a suit in equity in the circuit court of the United States for the southern district of New York, wherein they were complainants and you, the said Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein, were defendants, have appealed to the Supreme Court of the United States from the final decree entered by said circuit court on the 10th day of June, 1887, and have filed the security required by law:

You are therefore hereby cited and admonished to be and appear before the said Supreme Court of the United States, to be
1163 held at the city of Washington, on the second Monday of October, 1887, to show cause why the said decree should not be reversed, and to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of New York, in the southern district of New York, in the second circuit, the first day of July, 1887.

(S'g'd) ADDISON BROWN,
U. S. Dist. Judge.

(Endorsed:) Circuit court of the United States, southern district of New York. George B. Cluett & *als. vs.* Horace B. Claflin & *als.* Petition on appeal, bond, citation, &c. James A. Skilton, solicitor and of counsel for complainants and appellants, 115 Broadway, New York city.

(File-mark:) U. S. circuit court. Filed July 1, 1887. Timothy Griffith, clerk.

1164 Circuit Court of the United States, Southern District of New York.

GEORGE B. CLUETT, J. W. ALFRED CLUETT, and ROBERT CLUETT
vs.
HORACE B. CLAFLIN, JOHN CLAFLIN, EDWARD E. EAMES, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein.

In Equity. No. 3777.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

EDWARD S. BERRALL, being duly sworn, saith that on the first day of July, 1887, about 4 o'clock p. m., he served on the solicitor and counsel of the above-named appellees, David Tim, Esq., and Louis C. Raegener, Esq., a copy of the appeal and a copy of the citation filed in this cause with the clerk of the circuit court in and for the southern district of New York by delivering said
1165 copy of the citation and appeal to the said solicitor and to the said counsel personally and by leaving a copy of the same for the said appellees in the circuit court clerk's office aforesaid.

(Signed) EDWARD S. BERRALL.

Sworn to this first day of July, 1887, before me—

(S'g'd) JOHN A. SHIELDS,
U. S. Commissioner, S. D. of N. Y.

(Endorsed:) Circuit court of the United States, southern district of New York. George B. Cluett & *als. vs.* Horace B. Claflin & *als.* Affidavit of service. James A. Skilton, solicitor and of counsel for complainants and appellants, 115 Broadway, New York city.
(File-mark:) U. S. circuit court. Filed July 1, 1887. Timothy Griffith, clerk.

1165 UNITED STATES OF AMERICA, } *ss:*
Southern District of New York, }

I, Timothy Griffith, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to eleven hundred and sixty-five, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the case of George B. Cluett, J. W. Alfred Cluett, and Robert Cluett against Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, Louis Tim, Max Hermann, Maurice Ober, Jeremiah O'Sullivan, and Edward Wallerstein as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this tenth day of October, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the said United States the one hundred and twelfth.

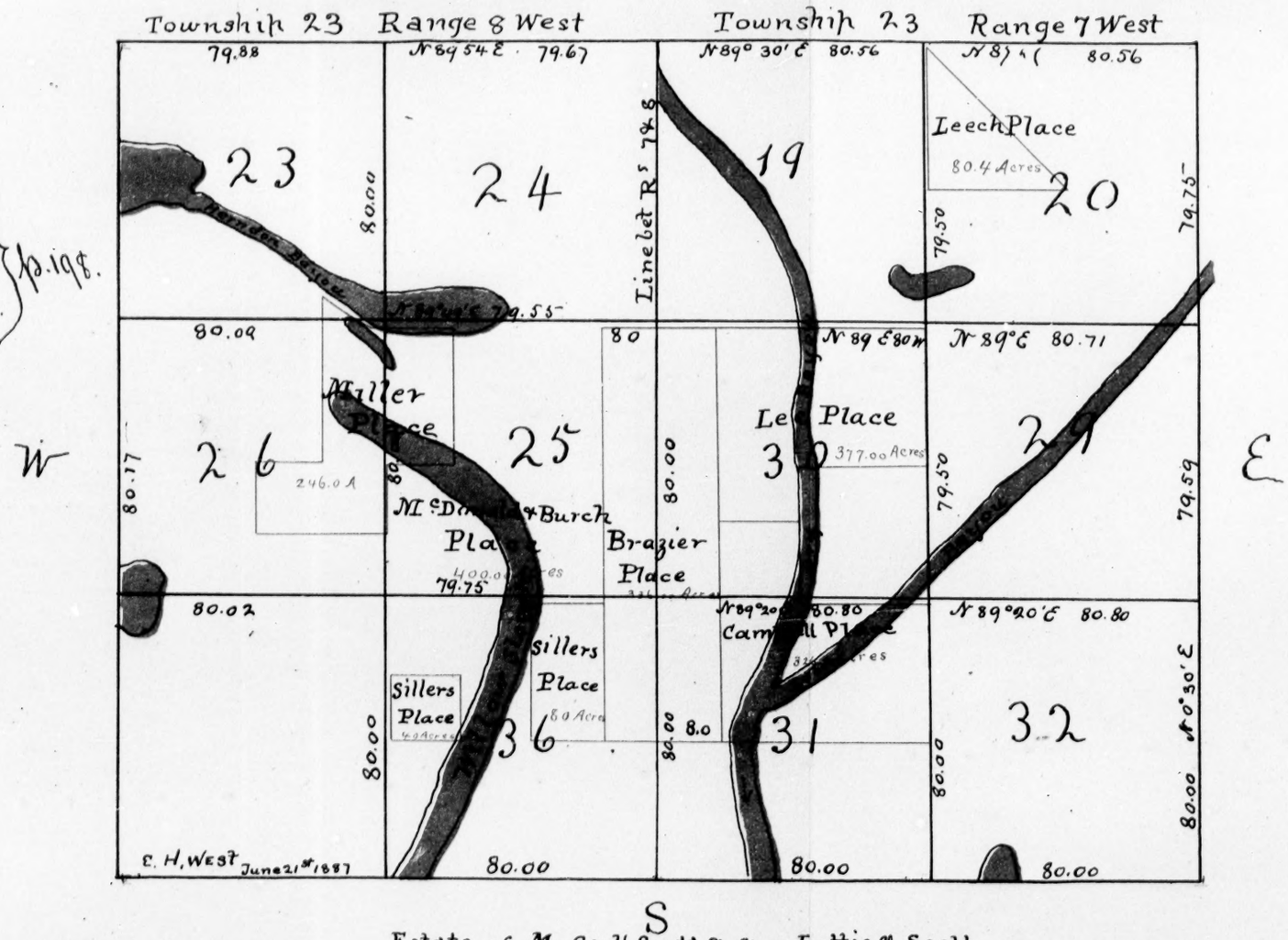
Seal of U. S. Circuit Court, South. Dist. New York.

TIMOTHY GRIFFITH, *Clerk.*

Endorsed on cover: S. New York C. C. U. S. No. 174. George B. Cluett, J. W. Alfred Cluett, and Robert Cluett, appellants, *vs.* Horace B. Claflin, John Claflin, Edward E. Eames, William S. Dunn, Dexter N. Force, Horace J. Fairchild, Daniel Robinson, Solomon Tim, *et al.* Filed October 11, 1887.

Scotland Plantation

No. 314. Scott et al. v. Neely et al. } p. 198.



Estate of Mr Geo Y. Scott & Mrs Lottie M. Scott
in
Bolivar County Mississippi.